



SDMS Doc ID 2026669

THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 9
AND
THE CALIFORNIA DEPARTMENT OF HEALTH SERVICES
AND
THE CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL VALLEY REGION
AND
THE UNITED STATES DEFENSE LOGISTICS AGENCY

IN THE MATTER OF:

The Defense
Logistics Agency

Defense Distribution
Region West -

Tracy Site

Federal Facility Agreement
Under CERCLA
Section 120

Administrative
Docket Number: 91-15

DDRW-Tracy Federal Facility Agreement

Based on the information available to the Parties on the effective date of this FEDERAL FACILITY AGREEMENT (Agreement), and without trial or adjudication of any issues of fact or law, the Parties agree as follows:

1. JURISDICTION

1.1 Each Party is entering into this Agreement pursuant to the following authorities:

(a) The U.S. Environmental Protection Agency (EPA), enters into those portions of this Agreement that relate to the remedial investigation/feasibility study (RI/FS) pursuant to section 120(e)(1) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), 42 U.S.C. § 9620(e)(1), as amended by the Superfund Amendments and Reauthorization Act of 1986 (SARA), Pub. L. 99-499 (hereinafter jointly referred to as CERCLA), and the Resource Conservation and Recovery Act (RCRA) sections 6001, 3004(u) and (v), 42 U.S.C. §§ 6961, 6924(u) and (v), as amended by the Hazardous and Solid Waste Amendments of 1984 (HSWA) (hereinafter jointly referred to as RCRA), and Executive Order 12580;

(b) EPA enters into those portions of this Agreement that relate to remedial actions pursuant to CERCLA section 120(e)(2), 42 U.S.C. § 9620(e)(2), RCRA sections 6001, 3004(u) and (v), 42 U.S.C. §§ 6961, 6924(u) and (v), and Executive Order 12580;

(c) The Defense Logistics Agency (DLA) enters into those portions of this Agreement that relate to the RI/FS pursuant to CERCLA section 120(e)(1), 42 U.S.C. § 9620(e)(1), RCRA sections 6001, and 3004(u) & (v), 42 U.S.C. § 6961, 6924(u) & (v), Executive Order 12580, and the Defense Environmental Restoration Program (DERP), 10 U.S.C. §§ 2701 et. seq.;

(d) DLA enters into those portions of this Agreement that relate to remedial actions pursuant to CERCLA section 120(e)(2), 42 U.S.C. § 9620(e)(2), RCRA sections 6001, and 3004(u) & (v), 42 U.S.C. §§ 6961, 6924(u) & (v), Executive Order 12580 and the DERP; and

(e) The Department of Health Services (DHS) and the California Regional Water Quality Control Board, Central Valley Region (RWQCB) enter into this agreement pursuant to CERCLA sections 120(f) and 121, 42 U.S.C. §§ 9620(f) and 9621, and the California Health and Safety Code, section 102, and Division 20, chapters 6.5 and 6.8 and Division 7 of the California Water Code, and the Clean Water Act, 33 U.S.C. §§ 1251 et seq.

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2. PARTIES

2.1 The Parties to this Agreement are EPA, DDRW-Tracy, DHS and RWQCB. The terms of the Agreement shall apply to and be binding upon EPA, DHS, RWQCB and DDRW-Tracy.

2.2 This Agreement shall be enforceable against all of the Parties to this Agreement. This Section shall not be construed as an agreement to indemnify any person. DDRW-Tracy shall notify its agents, members, employees, response action contractors for the Site, and all subsequent owners, operators, and lessees of the Site, of the existence of this Agreement.

2.3 Each Party shall be responsible for ensuring that its contractors comply with the terms and conditions of this Agreement. Failure of a Party to provide proper direction to its contractors and any resultant noncompliance with this Agreement by a contractor shall not be considered a Force Majeure event or other good cause for extensions under Section 9 (Extensions), unless the Parties so agree, or unless established by the Dispute Resolution Process contained in Section 12. DDRW-Tracy shall notify EPA, DHS and RWQCB of the identity and assigned tasks of each of its contractors performing work under this Agreement upon their selection.

3. DEFINITIONS

3.1 Except as noted below or otherwise explicitly stated, the definitions provided in CERCLA, CERCLA case law, and the NCP shall control the meaning of terms used in this Agreement.

(a) "Agreement" shall refer to this document and shall include all Appendices to this document to the extent they are consistent with the original Agreement as executed or modified. All such Appendices shall be made an integral and enforceable part of this document. Copies of Appendices shall be available as part of the administrative record, as provided in Subsection 26.3.

(b) "ARARs" shall mean federal and State applicable or relevant and appropriate requirements, standards, criteria, or limitations, identified pursuant to section 121 of CERCLA. ARARs shall apply in the same manner and to the same extent that such are applied to any non-governmental entity, facility, unit, or site, as defined in CERCLA and the NCP. See CERCLA section 120 (a)(1), 42 U.S.C. § 9620(a)(1).

(c) "CERCLA" shall mean the Comprehensive Environmental Response, Compensation and Liability Act, Public Law 96-510, 42 U.S.C. § 9601 et seq., as amended by the Superfund Amendments and Reauthorization Act of 1986, Public Law 99-499, and any subsequent amendments.

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(d) "Days" shall mean calendar days, unless business days are specified. Any submittal that under the terms of this Agreement would be due on Saturday, Sunday, or federal or State holiday shall be due on the following business day.

(e) "DHS" shall mean the California Department of Health Services, its successors and assigns, and its duly authorized representatives.

(f) "DDRW-Tracy" shall mean the U.S. Defense Logistics Agency, its employees, members, agents, and authorized representatives. "DDRW-Tracy" shall also include the Department of Defense (DOD), to the extent necessary to effectuate the terms of this Agreement, including, but not limited to, appropriations and Congressional reporting requirements.

(g) "EPA" shall mean the United States Environmental Protection Agency, its employees and authorized representatives.

(h) "Feasibility Study" or "FS" means a study conducted pursuant to CERCLA and the NCP which fully develops, screens, and evaluates in detail remedial action alternatives to prevent, mitigate, or abate the migration or the release of contaminants at and from the Site. DDRW-Tracy shall conduct and prepare the FS in a manner to support the intent and objectives of Section 17 (Statutory Compliance/RCRA-CERCLA Integration).

(i) "Federal Facility" shall include Defense Distribution Region West, Tracy Site (hereafter referred to as "DDRW-Tracy"), and including any real property subject to the jurisdiction of DDRW-Tracy, Tracy Site.

(j) "Meeting," in regard to Remedial Project Managers, shall mean an in-person discussion at a single location or a conference telephone call of all Remedial Project Managers. A conference call will suffice for an in-person meeting at the concurrence of the Remedial Project Managers.

(k) "National Contingency Plan" or "NCP" shall refer to the regulations contained in 40 CFR 300.1, et seq. and any subsequent amendments.

(l) "Operable Unit" or "OU" shall have the same meaning as provided in the NCP.

(m) "Operation and maintenance" shall mean activities required to maintain the effectiveness of response actions.

(n) "RCRA" or "RCRA/HSWA" shall mean the Resource Conservation and Recovery Act of 1976, Public Law 94-580, 42 U.S.C. § 6901 et seq., as amended by the Hazardous and Solid Waste Amendments of 1984, Public Law 98-616, and any subsequent amendments.

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(o) "Received", "Receipt" shall mean to take or acquire something given, offered or transmitted. For the purposes of this agreement when the term "receipt" or "received" is used it shall mean received by all Parties unless otherwise stated.

(p) "Remedial Investigation" or "RI" means that investigation conducted pursuant to CERCLA and the NCP, as supplemented by the substantive provisions of the EPA RCRA Facility Assessment Guidance. The RI serves as a mechanism for collecting data for Site and waste characterization, and conducting treatability studies as necessary to evaluate performance and cost of the treatment technologies. The data gathered during the RI will also be used to conduct a baseline risk assessment, perform a feasibility study, and support design of a selected remedy. DDRW-Tracy shall conduct and prepare the RI in a manner to support the intent and objectives of Section 17 (Statutory Compliance/RCRA-CERCLA Integration).

(q) "Remedial Project Manager" in this Agreement shall have the same meaning as provided in the NCP and shall have the authority provided in Section 18.

(r) "Remedy" or "Remedial Action" or "RA" shall have the same meaning as provided in section 101(24) of CERCLA, 42 U.S.C. § 9601(24), and the NCP, and may consist of Operable Units.

(s) "RWQCB" shall mean the California Regional Water Quality Control Board, Central Valley Region, its successors and assigns, and its duly authorized representatives.

(t) "Site" for purposes other than obtaining permits, shall include DDRW-Tracy (including any contiguous real property subject to the jurisdiction of the Site Commander of DDRW-Tracy, Tracy Site), the Federal Facility, as defined above, and any area off the Federal Facility to or under which a release of hazardous substances has migrated, or threatens to migrate, from a source on or at DDRW-Tracy. For the purposes of obtaining permits, the term, "on-site," shall have the same meaning as provided in the NCP, and the term, "off-site," shall mean all locations that are not on-site.

(u) "State" shall mean the California Department of Health Services (DHS) and the California Regional Water Quality Control Board (RWQCB), their respective employees and authorized representatives, unless otherwise specified.

4. PURPOSES

4.1 The general purposes of this Agreement are to:

(a) Ensure that the environmental impacts associated

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with past and present activities at the Site are thoroughly investigated and appropriate remedial action taken as necessary to protect the public health, welfare and the environment;

(b) Establish a procedural framework and schedule for developing, implementing and monitoring appropriate response actions at the Site in accordance with CERCLA, the NCP, Superfund guidance and policy, RCRA, RCRA guidance and policy, and applicable State law; and

(c) Facilitate cooperation, exchange of information and participation of the Parties in such action; and

(d) Ensure the adequate assessment of potential injury to natural resources, the prompt notification, cooperation and coordination with the Federal and State Natural Resources Trustees necessary to guarantee the implementation of response actions achieving appropriate cleanup levels.

4.2 Specifically, the purposes of this Agreement are to:

(a) Identify operable unit (OU) alternatives which are appropriate at the Site prior to the implementation of final remedial action(s) for the Site. OU alternatives shall be identified and discussed among the Parties as early as possible prior to formal proposal of OUs to EPA, DHS and RWQCB pursuant to this Agreement. This process is designed to promote cooperation among Parties in identifying OU alternatives prior to the final selection of Operable Units;

(b) Establish requirements for the performance of a Remedial Investigation ("RI") to determine fully the nature and extent of the threat to the public health or welfare or the environment caused by the release and threatened release of hazardous substances, pollutants, or contaminants at the Site and to establish requirements for the performance of a Feasibility Study ("FS") for the Site to identify, evaluate, and select alternatives for the appropriate remedial action(s) to prevent, mitigate, or abate the release or threatened release of hazardous substances, pollutants, or contaminants at the Site in accordance with CERCLA and applicable State law;

(c) Identify the nature, objective, and schedule of response actions to be taken at the Site. Response actions at the Site shall attain that degree of cleanup of hazardous substances, pollutants or contaminants mandated by CERCLA and State law;

(d) Implement the selected remedial actions(s) in accordance with CERCLA and applicable State law;

(e) Assure compliance at the Site, through this Agreement, with RCRA and other federal and State hazardous waste

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laws and regulations for matters covered herein;

(f) Coordinate response actions at the Site with the mission and support activities at DDRW-Tracy;

(g) Expedite the cleanup process to the extent consistent with protection of human health and the environment;

(h) Provide for State involvement in the initiation, development, selection and enforcement of remedial actions to be undertaken at DDRW-Tracy, including the review of all applicable data as it becomes available and the development of studies, reports, and action plans; and to identify and integrate State ARARs into the remedial action process; and to

(i) Provide for operation and maintenance of any remedial action selected and implemented pursuant to this Agreement.

5. DETERMINATIONS

5.1 This Agreement is based upon the placement of DDRW-Tracy, Tracy, California, on the National Priorities List by the Environmental Protection Agency on August 30, 1990 55 Federal Register 169 at page 33510 and 35525.

5.2 DDRW-Tracy is a facility under the jurisdiction, custody, or control of the Department of Defense within the meaning of Executive Order 12580, 52 Federal Register 2923, 29 January 1987. The Defense Logistics Agency is authorized to act on behalf of the Secretary of Defense for all functions delegated by the President through E.O. 12580 which are relevant to this Agreement.

5.3 DDRW-Tracy is a federal facility under the jurisdiction of the Secretary of Defense within the meaning of CERCLA section 120, 42 U.S.C. § 9620, and the Superfund Amendments and Reauthorization Act of 1986 (SARA) section 211, 10 U.S.C. § 2701 et seq., and is subject to the Defense Environmental Restoration Program (DERP).

5.4 DDRW-Tracy is the authorized delegate of the President under E.O. 12580 for receipt of notification by the State of its ARARs as required by CERCLA section 121(d)(2)(A)(ii), 42 U.S.C. § 9621(d)(2)(A)(ii).

5.5 The U.S. Department of the Army is the owner of the facility and DLA and DDRW are the operators of the facility within the meaning of CERCLA section 101(20), 42 U.S.C. § 9601 (20), and operate the site within the meaning of CERCLA section 107 (a)(1), 42 U.S.C. § 9607 (a)(1). Pursuant to "Management Guidance for Execution of the FY 1990/91 Defense Environmental Restoration Program (DERP)," September 29, 1989, and "Defense

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Environmental Restoration Program Authorities," November 13, 1989, the authority to manage the DERP, which provides for the cleanup of DOD hazardous waste sites, was delegated to DLA. As the operator of the facility pursuant to a Department of Army Permit to Defense Logistics Agency for use of an Entire Installation, and any subsequent permits, DLA is the lead agency of the United States to manage the DERP as it applies to the facility.

5.6 The authority of DDRW-Tracy to exercise the delegated removal authority of the President pursuant to CERCLA section 104, 42 U.S.C. § 9604 is not altered by this Agreement.

5.7 Appendix A to this Agreement shows those primary documents for which deadlines have been agreed upon before or on the effective date of this Agreement.

5.8 The actions to be taken pursuant to this Agreement are reasonable and necessary to protect the public health, welfare, or the environment, and consistent with the NCP.

5.9 There are areas within the boundaries of the federal facility where hazardous substances have been deposited, stored, placed, or otherwise come to be located in accordance with CERCLA sections 101(9) and (14), 42 U.S.C. § 9601(9) and (14).

5.10 There have been releases of hazardous substances, pollutants or contaminants at or from the federal facility into the environment as defined in CERCLA section 101(22), 42 U.S.C. § 9601(22).

5.11 With respect to these releases, DDRW-Tracy is an owner/operator and/or generator subject to the provisions of CERCLA section 107, 42 U.S.C. § 9607, and within the meaning of California Health and Safety Code section 25323.5(a), and is a person within the meaning of California Health and Safety Code § 25118 and California Water Code § 13050(c).

5.12 Included as Attachment A-3 to this Agreement is a map showing source(s) of suspected contamination and the areal extent of known contamination, based on information available at the time of the signing of this Agreement.

6. WORK TO BE PERFORMED

6.1 The Parties agree to perform the tasks, obligations and responsibilities described in this Section in accordance with CERCLA and CERCLA guidance and policy; the NCP; pertinent provisions of RCRA and RCRA guidance and policy; Executive Order 12580; applicable State laws and regulations; and all terms and conditions of this Agreement including documents prepared and incorporated in accordance with Section 7 (Consultation) and Appendix B.

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6.2 The DDRW-Tracy agrees to undertake, seek adequate funding for, fully implement and report on the following tasks, with participation of the Parties as set forth in this Agreement:

- (a) Remedial Investigations of the Site;
- (b) Federal and State Natural Resource Trustee Notification and Coordination;
- (c) Feasibility Studies for the Site;
- (d) All response actions, including Operable Units, for the Site;
- (e) Operation and maintenance of response actions at the Site.

6.3 The Parties agree to:

- (a) Make their best efforts to expedite the initiation of response actions for the Site, particularly for Operable Units;
- (b) Carry out all activities under this Agreement so as to protect the public health, welfare and the environment.

6.4 Upon request, EPA, DHS and RWQCB agree to provide any Party with guidance or reasonable assistance in obtaining guidance relevant to the implementation of this Agreement.

7. CONSULTATION: Review and Comment Process for Draft and Final Documents

7.1 Applicability:

The provisions of this Section establish the procedures that shall be used by the Parties to provide each other with appropriate technical support, notice, review, comment, and response to comments regarding RI/FS and RD/RA documents, specified herein as either primary or secondary documents. In accordance with CERCLA section 120, 42 U.S.C. § 9620, and 10 U.S.C. § 2705, the DDRW-Tracy will normally be responsible for issuing primary and secondary documents to EPA, DHS and RWQCB. As of the effective date of this Agreement, all draft, draft final and final deliverable documents identified herein shall be prepared, distributed and subject to dispute in accordance with subsections 7.2 through 7.10 below. The designation of a document as "draft" or "final" is solely for purposes of consultation with EPA, DHS and RWQCB in accordance with this Section. Such designation does not affect the obligation of the Parties to issue documents, which may be referred to herein as "final", to the public for review and comment as appropriate and as required by law.

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7.2 General Process for RI/FS and RD/RA documents:

(a) Primary documents include those reports that are major, discrete, portions of RI/FS and/or RD/RA activities. Primary documents are initially issued by DDRW-Tracy in draft subject to review and comment by EPA, DHS and RWQCB. Following receipt of comments on a particular draft primary document, DDRW-Tracy will respond to the comments received and issue a draft final primary document subject to dispute resolution. The draft final primary document will become the final primary document either thirty (30) days after the issuance of a draft final document if dispute resolution is not invoked or as modified by decision of the dispute resolution process.

(b) Secondary documents include those reports that are discrete portions of the primary documents and are typically input or feeder documents. Secondary documents are issued by DDRW-Tracy in draft subject to review and comment by EPA, DHS and RWQCB. Although DDRW-Tracy will respond to comments received, the draft secondary documents may be finalized in the context of the corresponding primary documents. A secondary document may be disputed at the time the corresponding draft final primary document is issued.

7.3 Primary Documents:

(a) DDRW-Tracy shall complete and transmit drafts of the primary documents identified in Appendix B to EPA, DHS and RWQCB, for review and comment in accordance with the provisions of this Section.

(b) Only draft final primary documents shall be subject to dispute resolution. DDRW-Tracy shall complete and transmit draft primary documents in accordance with the timetable and deadlines established in Section 8 (Deadlines) and Appendix A of this Agreement.

(c) Primary documents may include target dates for subtasks established as provided in Subsections 7.4(b) and 18.3. The purpose of target dates is to assist DDRW-Tracy in meeting deadlines, but target dates do not become enforceable by their inclusion in the primary documents and are not subject to Section 8 (Deadlines), Section 9 (Extensions) or Section 13 (Enforceability).

7.4 Secondary Documents:

(a) DDRW-Tracy shall complete and transmit drafts of the secondary documents identified in Appendix B to EPA, DHS and RWQCB for review and comment.

(b) Although EPA, DHS and RWQCB may comment on the drafts for the secondary documents listed in Appendix B, such

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documents shall not be subject to dispute resolution except as provided by Subsection 7.2 hereof. Target dates for the completion and transmission of draft secondary documents may be established by the Remedial Project Managers. The Remedial Project Managers also may agree upon additional secondary documents that are within the scope of the listed primary documents.

7.5 Meetings of the Remedial Project Managers. (See also Subsection 18.3).

The Remedial Project Managers shall meet in person approximately every ninety (90) days, except as otherwise agreed by the Parties, to review and discuss the progress of work being performed at the Site, including progress on the primary and secondary documents. However, progress meetings may be held more frequently as needed upon request by any Remedial Project Manager. Prior to preparing any draft document specified in subsections 7.3 and 7.4 above, the Remedial Project Managers shall meet in an effort to reach a common understanding with respect to the contents of the draft document.

7.6 Identification and Determination of Potential ARARs:

(a) For those primary documents or secondary documents for which ARAR determinations are appropriate, prior to the issuance of a draft document, the Remedial Project Managers shall meet to identify and propose all potential ARARs pertinent to the document being addressed, including any permitting requirements which may be a source of ARARs. For the particular document being addressed, DHS, with the assistance of RWQCB, shall identify potential State ARARs as required by CERCLA section 121(d)(2)(A)(ii), 42 U.S.C. § 9621(d)(2)(A)(ii), which are pertinent to those activities for which all California State and local agencies are responsible. Draft ARAR determinations shall be prepared by DDRW-Tracy in accordance with CERCLA section 121(d)(2), 42 U.S.C. § 9621(d)(2), the NCP and pertinent guidance issued by EPA.

(b) DHS will contact those State and local governmental agencies which are a source of potential ARARs. The proposed ARARs obtained from the identified agencies will be submitted to DDRW-Tracy, along with a list of those agencies who failed to respond to DHS's solicitation of ARARs. DDRW-Tracy will contact those agencies who failed to respond and again solicit these inputs.

(c) In identifying potential ARARs, the Parties recognize that actual ARARs can be identified only on a site-specific basis and that ARARs depend on the specific hazardous substances, pollutants and contaminants at a site, the particular actions associated with a proposed remedy and the characteristics of a site. The Parties recognize that ARAR identification is

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necessarily an iterative process and that potential ARARs must be identified and discussed among the Parties as early as possible, and must be reexamined throughout the RI/FS process until a ROD is issued.

7.7 Review and Comment on Draft Documents:

(a) DDRW-Tracy shall complete and transmit each draft primary document to EPA, DHS and RWQCB on or before the corresponding deadline established for the issuance of the document. DDRW-Tracy shall complete and transmit the draft secondary documents in accordance with the target dates established for the issuance of such documents.

(b) Unless the Parties mutually agree to another time period, all draft documents shall be subject to a sixty (60) day period for review and comment. Review of any document by EPA, DHS and RWQCB may concern all aspects of it (including completeness) and should include, but is not limited to, technical evaluation of any aspect to the document, and consistency with CERCLA, the NCP, applicable California law, and any pertinent guidance or policy issued by EPA, DHS or RWQCB. At the request of any Remedial Project Manager, and to expedite the review process, DDRW-Tracy shall make an oral presentation of the document to the Parties at the next scheduled meeting of the Remedial Project Managers following transmittal of the draft document or within fourteen (14) days following the request, whichever is sooner. Comments by EPA, DHS and RWQCB shall be provided with adequate specificity so that DDRW-Tracy may respond to the comment and, if appropriate, make changes to the draft document. Comments shall refer to any pertinent sources of authority or references upon which the comments are based and, upon request of DDRW-Tracy, EPA, DHS or RWQCB, as appropriate, shall provide a copy of the cited authority or reference. EPA, DHS or RWQCB may extend the sixty (60) day comment period for an additional thirty (30) days by written notice to DDRW-Tracy prior to the end of the sixty (60) day period. On or before the close of the comment period, EPA, DHS and RWQCB shall transmit their written comments to DDRW-Tracy. In appropriate circumstances, this time period may be further extended in accordance with Section 9 (Extensions).

(c) Representatives of DDRW-Tracy shall make themselves readily available to EPA, DHS and RWQCB during the comment period for purposes of informally responding to questions and comments on draft documents. Oral comments made during such discussions need not be the subject of a written response by DDRW-Tracy on the close of the comment period.

(d) In commenting on a draft document which contains a proposed ARAR determination, EPA, DHS or RWQCB shall include a reasoned statement of whether it objects to any portion of the proposed ARAR determination. To the extent that EPA, DHS or

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RWQCB does object, it shall explain the basis for its objection in detail and shall identify any ARARs which it believes were not properly addressed in the proposed ARAR determination.

(e) Following the close of the comment period for a draft document, DDRW-Tracy shall give full consideration to all written comments submitted during the comment period provided on the draft document. Within fifteen (15) days following the close of the comment period on a draft secondary document or draft primary document the Parties shall hold a meeting to discuss all comments received, except as otherwise agreed by all the Parties. On a draft secondary document DDRW-Tracy shall, within sixty (60) days of the close of the comment period, transmit to EPA, DHS and RWQCB its written response to the comments received. On a draft primary document DDRW-Tracy shall, within sixty (60) days of the close of the comment period, transmit to EPA, DHS and RWQCB a draft final primary document, which shall include DDRW-Tracy's response to all written comments received within the comment period. While the resulting draft final document shall be the responsibility of DDRW-Tracy, it shall be the product of consensus to the maximum extent possible.

(f) DDRW-Tracy may extend the sixty (60) day period for either responding to comments on a draft document or for issuing the draft final primary document for an additional thirty (30) days by providing written notice to EPA, DHS and RWQCB. In appropriate circumstances, this time period may be further extended in accordance with Section 9 (Extensions).

7.8 Availability of Dispute Resolution for Draft Final Primary Documents:

(a) Dispute resolution shall be available to the Parties for draft final primary documents as set forth in Section 12 (Dispute Resolution).

(b) When dispute resolution is invoked on a draft final primary document, work may be stopped in accordance with the procedures set forth in Subsection 12.9 regarding dispute resolution.

7.9 Finalization of Documents:

The draft final primary document shall serve as the final primary document if no party invokes dispute resolution regarding the document or, if invoked, at completion of the dispute resolution process should DDRW-Tracy's position be sustained. If DDRW-Tracy's determination is not sustained in the dispute resolution process, DDRW-Tracy shall prepare, within not more than sixty (60) days, a revision of the draft final document which conforms to the results of dispute resolution. In appropriate circumstances, the time period for this revision period may be extended in accordance with Section 9 (Extensions).

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7.10 Subsequent Modification of Final Documents:

Following finalization of any primary document other than the Community Relations Plan and the Well Monitoring Program Report pursuant to Subsection 7.9 above, any Party may seek to modify the document including seeking additional field work, pilot studies, computer modeling or other supporting technical work, only as provided in subparagraphs (a) and (b) below.

(a) Any Party may seek to modify a document after finalization if it determines, based on new information (i.e., information that becomes available, or conditions that become known, after the document was finalized) that the requested modification is necessary. Any party may seek such a modification by submitting a concise written request to the Remedial Project Managers of the other Parties. The request shall specify the nature of the requested modification and how the request is based on new information.

(b) In the event that a consensus is not reached by the Remedial Project Managers on the need for a modification, any Party may invoke dispute resolution to determine if such modification shall be conducted. Modification of a document shall be required only upon a showing that:

(1) The requested modification is based on significant new information; and

(2) The requested modification could be of significant assistance in evaluating impacts on the public health or the environment, in evaluating the selection of remedial alternatives, or in protecting human health and the environment.

(c) Nothing in this Section shall alter EPA's, DHS's or RWQCB's ability to request the performance of additional work which was not contemplated by this Agreement. DDRW-Tracy's obligation to perform such work under this Agreement must be established by either a modification of a document or by amendments to this Agreement.

8. DEADLINES

8.1 All deadlines agreed upon before the effective date of this Agreement shall be identified in Appendix A to this Agreement. To the extent that deadlines have already been mutually agreed upon by the Parties prior to the execution of this Agreement, they will satisfy the requirements of this Section and remain in effect, shall be published in accordance with Subsection 8.2, and shall be incorporated into the appropriate work plans.

8.2 Within forty-five (45) days from the date on which EPA and DDRW-Tracy sign this Agreement, EPA signing after DDRW-Tracy,

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DDRW-Tracy shall propose, and announce and make available for public comment in accordance with Section 36, deadlines for completion of the draft primary documents identified in Appendix B of this Agreement for those operable units identified as of the effective date of this Agreement and for the final Site remedy. Either within sixty (60) days after EPA signs this Agreement, or at the end of the public comment period, whichever is longer, EPA, DHS and RWQCB shall review and provide comments to DDRW-Tracy regarding the proposed deadlines. Within fifteen (15) days following receipt of the comments DDRW-Tracy shall, as appropriate, make revisions and reissue the proposal. The Parties shall meet as necessary to discuss and finalize the proposed deadlines. All agreed-upon deadlines shall be incorporated into the appropriate work plans. If the Parties fail to agree within thirty (30) days on the proposed deadlines, the matter shall immediately be submitted for dispute resolution pursuant to Section 12 (Dispute Resolution). The final deadlines established pursuant to this Subsection shall be published by EPA, in conjunction with the State, and shall become an Appendix (Appendix D) to this Agreement.

8.3 Within twenty-one (21) days of issuance of the Record of Decision for any operable unit or for the final remedy, DDRW-Tracy shall propose deadlines for completion of the draft primary documents found in Appendix B. These deadlines shall be proposed, finalized and published using the same procedures set forth in Subsection 8.2 above.

8.4 For any operable units not identified as of the effective date of this Agreement, DDRW-Tracy shall propose deadlines for all primary documents listed in Appendix B within twenty-one (21) days of agreement on the proposed operable unit by all Parties. These deadlines shall be proposed, finalized and published using the same procedures set forth in Subsection 8.2 above.

8.5 The deadlines set forth in this Section, or to be established as set forth in this Section, may be extended pursuant to Section 9 (Extensions). The Parties recognize that one possible basis for extension of the deadlines for completion of the Remedial Investigation and Feasibility Study Reports is the identification of significant new Site conditions during the performance of the remedial investigation.

9. EXTENSIONS

9.1 Timetables, deadlines and schedules shall be extended upon receipt of a timely request for extension and when good cause exists for the requested extension. Any request for extension by a Party shall be submitted to the other Parties in writing and shall specify:

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- (a) The timetable, deadline or schedule that is sought to be extended;
- (b) The length of the extension sought;
- (c) The good cause(s) for the extension; and
- (d) The extent to which any related timetable and deadline or schedule would be affected if the extension were granted.

9.2 Good cause exists for an extension when sought in regard to:

- (a) An event of Force Majeure as defined in Section 10 (Force Majeure) of this Agreement;
- (b) A delay caused by another Party's failure to meet any requirement of this Agreement;
- (c) A delay caused by the good faith invocation of dispute resolution or the initiation of judicial action;
- (d) A delay caused, or which is likely to be caused, by the grant of an extension in regard to another timetable and deadline or schedule;
- (e) A delay caused by public comment periods or hearings required under State law in connection with the State's performance of this Agreement;
- (f) Any work stoppage within the scope of Section 11 (Emergencies and Removals); or
- (g) Any other event or series of events mutually agreed to by the Parties as constituting good cause.

9.3 Absent agreement of the Parties with respect to the existence of good cause, a Party may seek and obtain a determination through the dispute resolution process that good cause exists.

9.4 Within seven (7) days of receipt of a request for an extension of a timetable, deadline or schedule, each receiving Party shall advise the requesting Party orally of the receiving Party's position on the request. Such oral notice shall be followed up in writing within fourteen (14) days. Any failure by a receiving Party to respond orally within the seven (7) day period shall be deemed to constitute concurrence with the request for extension. If a receiving Party does not concur in the requested extension, it shall include in its statement of nonconcurrence an explanation of the basis for its position.

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9.5 If there is consensus among the Parties that the requested extension is warranted, DDRW-Tracy shall extend the affected timetable and deadline or schedule accordingly. If there is no consensus among the Parties as to whether all or part of the requested extension is warranted, the timetable and deadline or schedule shall not be extended except in accordance with a determination resulting from the dispute resolution process.

9.6 Within seven (7) days of receipt of a statement of nonconcurrence with the requested extension, the requesting Party may invoke dispute resolution.

9.7 A timely and good faith request by DDRW-Tracy for an extension shall toll any assessment of stipulated penalties or application for judicial enforcement of the affected timetable and deadline or schedule until a decision is reached on whether the requested extension will be approved. If dispute resolution is invoked and the requested extension is denied, stipulated penalties may be assessed and may accrue from the date of the original timetable, deadline or schedule. Following the grant of an extension, an assessment of stipulated penalties or an application for judicial enforcement may be sought only to compel compliance with the timetable and deadline or schedule as most recently extended.

10. FORCE MAJEURE

10.1 A Force Majeure shall mean any event arising from causes beyond the control of a Party that causes a delay in or prevents the performance of any obligation under this Agreement, including, but not limited to, acts of God; fire; war; insurrection; civil disturbance; explosion; unanticipated breakage or accident to machinery, equipment or lines of pipe despite reasonably diligent maintenance; adverse weather conditions that could not be reasonably anticipated; unusual delay in transportation; restraint by court order or order of public authority; inability to obtain, at reasonable cost and after exercise of reasonable diligence, any necessary authorizations, approvals, permits, or licenses due to action or inaction of any governmental agency or authority other than DDRW-Tracy; delays caused by compliance with applicable statutes or regulations governing contracting, procurement or acquisition procedures, despite the exercise of reasonable diligence; and insufficient availability of appropriated funds which have been diligently sought. In order for Force Majeure based on insufficient funding to apply to DDRW-Tracy, DDRW-Tracy shall have made timely request for such funds as part of the budgetary process as set forth in Section 15 (Funding). A Force Majeure shall also include any strike or other labor dispute, whether or not within the control of the Parties affected thereby. Force Majeure shall not include increased costs or expenses of Response Actions, whether or not anticipated at the time such Response

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Actions were initiated.

11. EMERGENCIES AND REMOVALS

11.1 Discovery and Notification: If any Party discovers or becomes aware of an emergency or other situation that may present an endangerment to public health, welfare or the environment at or near the Site, which is related to or may affect the work performed under this Agreement, that Party shall immediately orally notify all other Parties, followed by written notification within seven (7) days. If the emergency arises from activities conducted pursuant to this Agreement, DDRW-Tracy shall then take immediate action to notify the appropriate State and local agencies and affected members of the public.

11.2 Work Stoppage: In the event any Party determines that activities conducted pursuant to this Agreement will cause or otherwise threaten to cause a situation described in Subsection 11.1, the Party may propose the termination of such activities. If the Parties mutually agree, the activities shall be stopped for such period of time as required to abate the danger. In the absence of mutual agreement, the activities shall be stopped in accordance with the proposal, and the matter shall be immediately referred to the EPA Hazardous Waste Management Division Director for a work stoppage determination in accordance with Section 12.10.

11.3 Removal Actions:

(a) The provisions of this Section shall apply to all removal actions as defined in CERCLA section 101(23), 42 U.S.C. § 9601(23) and Health and Safety Code section 25323, including all modifications to, or extensions of, the ongoing removal actions, and all new removal actions proposed or commenced following the effective date of this Agreement.

(b) Any removal actions conducted at the Site shall be conducted in a manner consistent with this Agreement, CERCLA, the NCP and Executive Order 12580.

(c) Nothing in this Agreement shall alter DDRW-Tracy's authority with respect to removal actions conducted pursuant to section 104 of CERCLA, 42 U.S.C. § 9604.

(d) Nothing in this Agreement shall alter any authority DHS, RWQCB or EPA may have with respect to removal actions conducted at the Site.

(e) All reviews conducted by EPA, DHS and RWQCB pursuant to 10 U.S.C. § 2705(b)(2) will be expedited so as not to unduly jeopardize fiscal resources of DDRW-Tracy for funding the removal actions.

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(f) If a Party determines that there may be an endangerment to the public health or welfare or the environment because of an actual or threatened release of a hazardous substance, pollutant or contaminant at or from the Site, including but not limited to discovery of contamination of a drinking water well at concentrations that exceed any State or federal drinking water action level or standards, the Party may request that DDRW-Tracy take such response actions as may be necessary to abate such danger or threat and to protect the public health or welfare or the environment. Such actions might include provision of alternative drinking water supplies or other response actions listed in CERCLA section 101(23) or (24), 42 U.S.C. § 9601(23) or (24), or such other relief as the public interest may require.

11.4 Notice and Opportunity to Comment:

(a) DDRW-Tracy shall provide the other Parties with timely notice and opportunity to review and comment upon any proposed removal action for the Site, in accordance with 10 U.S.C. § 2705(a) and (b). DDRW-Tracy agrees to provide the information described below pursuant to such obligation.

(b) For emergency response actions, DDRW-Tracy shall provide EPA, DHS and RWQCB with notice in accordance with Subsection 11.1. Except in the case of extreme emergencies, such oral notification shall include adequate information concerning the Site background, threat to the public health and welfare or the environment (including the need for response), proposed actions and costs (including a comparison of possible alternatives, means of transportation of any hazardous substances off site, and proposed manner of disposal), expected change in the situation should no action be taken or should action be delayed (including associated environmental impacts), any important policy issues, and DDRW-Tracy On-Scene Coordinator recommendations. Within forty-five (45) days of completion of the emergency action, DDRW-Tracy will furnish EPA, DHS and RWQCB with an Action Memorandum addressing the information provided in the oral notification, and any other information required pursuant to CERCLA and the NCP, and in accordance with pertinent EPA guidance, for such actions.

(c) For other removal actions, DDRW-Tracy will provide EPA, DHS and RWQCB with any information required by CERCLA, the NCP, and in accordance with pertinent EPA guidance, such as the Engineering Evaluation/Cost Analysis (in the case of non-time-critical removals), the Action Memorandum, and, to the extent it is not otherwise included, all information required to be provided in accordance with paragraph (b) of this Subsection. Such information shall be provided in a timely manner. DDRW-Tracy shall submit draft EE/CAs to the other Parties for their review and comment prior to the initiation of the public comment period for the EE/CA. DDRW-Tracy shall provide the action

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memorandum to the other Parties for their review and comment at least forty-five (45) days before the response action is to begin.

(d) All activities related to ongoing removal actions shall be reported by DDRW-Tracy in the progress reports as described in Section 18 (Remedial Project Managers).

11.5 Disputes among the Parties on the following issues shall be resolved pursuant to Section 12 (Dispute Resolution):

(a) whether a proposed response action is properly considered a removal action, as defined by CERCLA section 101(23), 42 U.S.C. § 9601(23);

(b) whether a proposed response action is consistent with the final remedial action; or

(c) whether DDRW-Tracy will conduct a removal action requested pursuant to Subsection 11.3(f).

12. DISPUTE RESOLUTION

12.1 Except as specifically set forth elsewhere in this Agreement, if a dispute arises under this Agreement, the procedures of this Section shall apply. EPA, DDRW-Tracy, and collectively the Parties representing the State as a single unit, may invoke this dispute resolution procedure. All Parties to this Agreement shall make reasonable efforts to informally resolve disputes at the Remedial Project Manager or immediate supervisor level. If resolution cannot be achieved informally, the procedures of this Section shall be implemented to resolve a dispute.

12.2 Prior to any Party's issuance of a written statement of a dispute, the disputing Party shall engage the other Party in informal dispute resolution among the Remedial Project Managers and/or their immediate supervisors. During this informal dispute resolution period the Parties shall meet as many times as are necessary to discuss and attempt resolution of the dispute.

12.3 Within thirty (30) days after: (a) the receipt of a draft final primary document pursuant to Section 7 (Consultation), or (b) any action which leads to or generates a dispute, the disputing Party shall submit to the Dispute Resolution Committee (DRC) a written statement of dispute setting forth the nature of the dispute, the work affected by the dispute, the disputing Party's position with respect to the dispute and the technical, legal or factual information the disputing Party is relying upon to support its position.

12.4 The DRC will serve as a forum for resolution of

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disputes for which agreement has not been reached through informal dispute resolution. The Parties shall each designate one individual and an alternate to serve on the DRC. The individuals designated to serve on the DRC shall be employed at the policy level Senior Executive Service (SES) or equivalent or be delegated the authority to participate on the DRC for the purposes of dispute resolution under this Agreement. The EPA representative on the DRC is the Deputy Director, Hazardous Waste Management Division (Superfund Programs), of EPA's Region 9. DDRW-Tracy's designated member is the DDRW Commander. The DHS representative is the Chief of the Site Mitigation Branch, Region 1. The RWQCB representative is the RWQCB Supervising Engineer, Federal Facilities Unit. Written notice of any delegation of authority from a Party's designated representative on the DRC shall be provided to all other Parties pursuant to the procedures of Section 21 (Notification).

12.5 Following elevation of a dispute to the DRC, the DRC shall have twenty-one (21) days to unanimously resolve the dispute and issue a written decision. If the DRC is unable to unanimously resolve the dispute within this twenty-one (21) day period, the written statement of dispute shall be forwarded to the Senior Executive Committee (SEC) for resolution within seven (7) days after the close of the twenty-one (21) day resolution period.

12.6 The SEC will serve as the forum for resolution of disputes for which agreement has not been reached by the DRC. The EPA representative on the SEC is the Regional Administrator of EPA Region 9. DDRW-Tracy's representative on the SEC is the Staff Director for the Office of Installation Service and Environmental Protection. The DHS representative on the SEC is the Regional Administrator, Region 1. The RWQCB representative on the SEC is the RWQCB Assistant Executive Officer. The SEC members shall, as appropriate, confer, meet and exert their best efforts to resolve the dispute and issue a written decision. If unanimous resolution of the dispute is not reached within twenty-one (21) days, EPA's Regional Administrator shall issue a written position on the dispute. DDRW-Tracy or the State may, within fourteen (14) days of the Regional Administrator's issuance of EPA's position, issue a written notice elevating the dispute to the Administrator of EPA for resolution in accordance with all applicable laws and procedures. In the event DDRW-Tracy or the State elects not to elevate the dispute to the Administrator within the designated fourteen (14) day escalation period, DDRW-Tracy and the State shall be deemed to have agreed with the Regional Administrator's written position with respect to the dispute.

12.7 Upon escalation of a dispute to the Administrator of EPA pursuant to Subsection 12.6 above, the Administrator will review and resolve the dispute within twenty-one (21) days. Upon request, and prior to resolving the dispute, the EPA

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Administrator shall meet and confer with the Director of DLA, the DHS Deputy Director, and the RWQCB Executive Officer to discuss the issue(s) under dispute. Upon resolution, the Administrator shall provide DDRW-Tracy and the State with a written final decision setting forth resolution of the dispute. The duties of the Administrator set forth in this Section shall not be delegated.

12.8 Wherever in this Section unanimity of decision is required for resolving disputes, DHS and RWQCB, as agencies of the State of California, shall have one vote between them regardless of the fact that they may have more than one representative representing them at the particular stage of dispute resolution. It shall be their responsibility to determine who shall cast their vote on their behalf.

12.9 The pendency of any dispute under this Section shall not affect any Party's responsibility for timely performance of the work required by this Agreement, except that the time period for completion of work affected by such dispute shall be extended for a period of time usually not to exceed the actual time taken to resolve any good faith dispute in accordance with the procedures specified herein. All elements of the work required by this Agreement which are not affected by the dispute shall continue and be completed in accordance with the applicable timetable and deadline or schedule.

12.10 When dispute resolution is in progress, work affected by the dispute will immediately be discontinued if the Hazardous Waste Management Division Director for EPA Region 9 requests, in writing, that work related to the dispute be stopped because, in EPA's opinion, such work is inadequate or defective, and such inadequacy or defect is likely to yield an adverse effect on human health or the environment, or is likely to have a substantial adverse effect on the remedy selection or implementation process. The State may request the EPA Hazardous Waste Management Division Director to order work stopped for the reasons set out above. To the extent possible, the Party seeking a work stoppage shall consult with the other Parties prior to initiating a work stoppage request. After work stoppage, if a Party believes that the work stoppage is inappropriate or may have potential significant adverse impacts, the Party may meet with the other Parties to discuss the work stoppage. Following this meeting, and further considerations of this issue, the EPA Hazardous Waste Management Division Director will issue, in writing, a final decision with respect to the work stoppage. The final written decision of the EPA Hazardous Waste Management Division Director may immediately be subject to formal dispute resolution. Such dispute may be brought directly to either the DRC or the SEC, at the discretion of the Party requesting dispute resolution.

12.11 Within twenty-one (21) days of resolution of a

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dispute pursuant to the procedures specified in this Section, DDRW-Tracy shall incorporate the resolution and final determination into the appropriate plan, schedule or procedures and proceed to implement this Agreement according to the amended plan, schedule or procedures.

12.12 Except as provided in Subsection 31.2, resolution of a dispute pursuant to this Section of the Agreement constitutes a final resolution of any dispute arising under this Agreement. All Parties shall abide by all terms and conditions of any final resolution of dispute obtained pursuant to this Section of this Agreement.

13. ENFORCEABILITY

13.1 The Parties agree that:

(a) Upon the effective date of this Agreement, any standard, regulation, condition, requirement or order which has become effective under CERCLA and is incorporated into this Agreement is enforceable by any person pursuant to CERCLA section 310, 42 U.S.C. § 9659, and any violation of such standard, regulation, condition, requirement or order will be subject to civil penalties under CERCLA sections 310(c) and 109, 42 U.S.C. §§ 9659(c) and 9609;

(b) All timetables or deadlines associated with the RI/FS shall be enforceable by any person pursuant to CERCLA section 310, 42 U.S.C. § 9659, and any violation of such timetables or deadlines will be subject to civil penalties under CERCLA sections 310(c) and 109, 42 U.S.C. §§ 9659(c) and 9609;

(c) All terms and conditions of this Agreement which relate to remedial actions, including corresponding timetables, deadlines or schedules, and all work associated with remedial actions, shall be enforceable by any person pursuant to CERCLA section 310(c), 42 U.S.C. § 9659(c), and any violation of such terms or conditions will be subject to civil penalties under CERCLA sections 310(c) and 109, 42 U.S.C. §§ 9659(c) and 9609; and

(d) Any final resolution of a dispute pursuant to Section 12 (Dispute Resolution) of this Agreement which establishes a term, condition, timetable, deadline or schedule shall be enforceable by any person pursuant to CERCLA section 310(c), 42 U.S.C. § 9659(c), and any violation of such term, condition, timetable, deadline or schedule will be subject to civil penalties under CERCLA sections 310(c) and 109, 42 U.S.C. §§ 9659(c) and 9609.

13.2 Nothing in this Agreement shall be construed as authorizing any person to seek judicial review of any action or

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work where review is barred by any provision of CERCLA including CERCLA section 113(h), 42 U.S.C. § 9613(h).

13.3 Nothing in this Agreement shall be construed as a restriction or waiver of any rights the EPA or the State may have under CERCLA, including but not limited to any rights under sections 113 and 310, 42 U.S.C. §§ 9613 and 9659. DDRW-Tracy does not waive any rights it may have under CERCLA section 120, 42 U.S.C. § 9620, SARA section 211 and Executive Order 12580.

13.4 The Parties agree to exhaust their rights under Section 12 (Dispute Resolution) prior to exercising any rights to judicial review that they may have.

13.5 The Parties agree that all Parties shall have the right to enforce the terms of this Agreement.

14. STIPULATED PENALTIES

14.1 In the event that DDRW-Tracy fails to submit a primary document listed in Appendix B to EPA, DHS and RWQCB pursuant to the appropriate timetable or deadline in accordance with the requirements of this Agreement, or fails to comply with a term or condition of this Agreement which relates to an operable unit or final remedial action, EPA may assess a stipulated penalty against DDRW-Tracy. DHS or RWQCB may also recommend to EPA that a stipulated penalty be assessed. A stipulated penalty may be assessed in an amount not to exceed \$5,000 for the first week (or part thereof), and \$10,000 for each additional week (or part thereof) for which a failure set forth in this Subsection occurs.

14.2 Upon determining that DDRW-Tracy has failed in a manner set forth in Subsection 14.1, EPA shall so notify DDRW-Tracy in writing. If the failure in question is not already subject to dispute resolution at the time such notice is received, DDRW-Tracy shall have fifteen (15) days after receipt of the notice to invoke dispute resolution on the question of whether the failure did in fact occur. DDRW-Tracy shall not be liable for the stipulated penalty assessed by EPA if the failure is determined, through the dispute resolution process, not to have occurred. No assessment of a stipulated penalty shall be final until the conclusion of dispute resolution procedures related to the assessment of the stipulated penalty.

14.3 The annual reports required by CERCLA section 120(e)(5), 42 U.S.C. § 9620(e)(5), shall include, with respect to each final assessment of a stipulated penalty against DDRW-Tracy under this Agreement, each of the following:

- (a) The federal facility responsible for the failure;
- (b) A statement of the facts and circumstances giving rise to the failure;

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(c) A statement of any administrative or other corrective action taken at the relevant federal facility, or a statement of why such measures were determined to be inappropriate;

(d) A statement of any additional action taken by or at the federal facility to prevent recurrence of the same type of failure; and

(e) The total dollar amount of the stipulated penalty assessed for the particular failure.

14.4 Stipulated penalties assessed pursuant to this Section shall be payable to the Hazardous Substance Superfund only in the manner and to the extent expressly provided for in acts authorizing funds for, and appropriations to, the DOD. EPA, DHS and RWQCB shall, to the extent allowed by law, divide equally any stipulated penalties paid on behalf of DDRW-Tracy with fifty percent (50%) allocated to EPA and fifty percent (50%) allocated to the State agencies.

14.5 In no event shall this Section give rise to a stipulated penalty in excess of the amount set forth in CERCLA section 109, 42 U.S.C. § 9609.

14.6 This Section shall not affect DDRW-Tracy's ability to obtain an extension of a timetable, deadline or schedule pursuant to Section 9 (Extensions).

14.7 Nothing in this Agreement shall be construed to render any officer or employee of DDRW-Tracy personally liable for the payment of any stipulated penalty assessed pursuant to this Section.

15. FUNDING

15.1 It is the expectation of the Parties to this Agreement that all obligations of DDRW-Tracy arising under this Agreement will be fully funded. DDRW-Tracy agrees to seek sufficient funding through the DOD budgetary process to fulfill its obligations under this Agreement.

15.2 In accordance with CERCLA section 120(e)(5)(B), 42 U.S.C. § 9620(e)(5)(B), DDRW-Tracy shall include, in its submission to the Department of Defense annual report to Congress, the specific cost estimates and budgetary proposals associated with the implementation of this Agreement.

15.3 Any requirement for the payment or obligation of funds, including stipulated penalties, by DDRW-Tracy established by the terms of this Agreement shall be subject to the availability of appropriated funds, and no provision herein shall be interpreted to require obligation or payment of funds in

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violation of the Anti-Deficiency Act, 31 U.S.C. § 1341. In cases where payment or obligation of funds would constitute a violation of the Anti-Deficiency Act, the dates established requiring the payment or obligation of such funds shall be appropriately adjusted.

15.4 If appropriated funds are not available to fulfill DDRW-Tracy's obligations under this Agreement, EPA, DHS and RWQCB reserve the right to initiate an action against any other person, or to take any response action, which would be appropriate absent this Agreement.

15.5 Funds authorized and appropriated annually by Congress under the "Environmental Restoration, Defense" appropriation in the Department of Defense Appropriation Act and allocated by the Deputy Assistant Secretary of Defense (Environment) to DDRW-Tracy will be the source of funds for activities required by this Agreement consistent with section 211 of SARA, 10 U.S.C. Chapter 160. However, should the Environmental Restoration, Defense appropriation be inadequate in any year to meet the total DDRW-Tracy CERCLA implementation requirements, the DOD shall employ and DDRW-Tracy shall follow a standardized DOD prioritization process which allocates that year's appropriations in a manner which maximizes the protection of human health and the environment. A standardized DOD prioritization model shall be developed and utilized with the assistance of EPA and the states.

16. EXEMPTIONS

16.1 The obligation of DDRW-Tracy to comply with the provisions of this Agreement may be relieved by:

(a) A Presidential order of exemption issued pursuant to the provisions of CERCLA section 120(j)(1), 42 U.S.C. § 9620(j)(1), or RCRA section 6001, 42 U.S.C. § 6961; or

(b) The order of an appropriate court.

16.2 The State reserves any statutory right they may have to challenge any Presidential Order relieving DDRW-Tracy of its obligations to comply with this Agreement.

17. STATUTORY COMPLIANCE/RCRA-CERCLA INTEGRATION

17.1 The Parties intend to integrate DDRW-Tracy's CERCLA response obligations and RCRA corrective action obligations which relate to the release(s) of hazardous substances, hazardous wastes, pollutants or contaminants covered by this Agreement into this comprehensive Agreement. Therefore, the Parties intend that activities covered by this Agreement will achieve compliance with CERCLA, 42 U.S.C. §§ 9601 et seq.; to satisfy the corrective action requirements of RCRA section 3004(u) and (v), 42 U.S.C. § 6924(u) and (v), for a RCRA permit, and to meet or exceed all

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applicable or relevant and appropriate federal and State laws and regulations, to the extent required by CERCLA section 121, 42 U.S.C. § 9621.

17.2 Based upon the foregoing, the Parties intend that any remedial action selected, implemented and completed under this Agreement will be protective of human health and the environment such that remediation of releases covered by this Agreement shall obviate the need for further corrective action under RCRA (i.e., no further corrective action shall be required). The Parties agree that with respect to releases of hazardous waste covered by this Agreement, RCRA shall be considered an applicable or relevant and appropriate requirement pursuant to CERCLA section 121, 42 U.S.C. § 9621.

17.3 The Parties recognize that the requirement to obtain permits for response actions undertaken pursuant to this Agreement shall be as provided for in CERCLA and the NCP. The Parties recognize that ongoing activities outside the scope of this Agreement at DDRW-Tracy may require the issuance of permits under federal and State laws. This Agreement does not affect the requirements, if any, to obtain such permits. However, if a permit is issued to DDRW-Tracy for ongoing hazardous waste management activities at the Site, the issuing party shall reference and incorporate in a permit condition any appropriate provision, including appropriate schedules (and the provision for extension of such schedules), of this Agreement into such permit. The Parties intend that any judicial review of any permit condition which references this Agreement shall, to the extent authorized by law, only be reviewed under the provisions of CERCLA.

18. Remedial Project Manager

18.1 On or before the effective date of this Agreement, EPA, DDRW-Tracy, DHS and RWQCB shall each designate a Remedial Project Manager and an alternate (each hereinafter referred to as Remedial Project Manager), for the purpose of overseeing the implementation of this Agreement. The Remedial Project Managers shall be responsible on a daily basis for assuring proper implementation of the RI/FS and the RD/RA in accordance with the terms of the Agreement. In addition to the formal notice provisions set forth in Section 21 (Notification), to the maximum extent possible, communications among DDRW-Tracy, EPA, DHS and RWQCB on all documents, including reports, comments, and other correspondence concerning the activities performed pursuant to this Agreement, shall be directed through the Remedial Project Managers.

18.2 DDRW-Tracy, EPA, DHS and RWQCB may change their respective Remedial Project Managers. The other Parties shall be notified orally within five (5) days of the change. Written confirmation shall follow within seven (7) days of the

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notification.

18.3 The Remedial Project Managers shall meet to discuss progress as described in Subsection 7.5. Although DDRW-Tracy has ultimate responsibility for meeting its respective deadlines or schedules, the Remedial Project Managers shall assist in this effort by consolidating the review of primary and secondary documents whenever possible, and by scheduling progress meetings to review reports, evaluate the performance of environmental monitoring at the Site, review RI/FS or RD/RA progress, discuss target dates for elements of the RI/FS to be conducted in the following one hundred and eighty (180) days, resolve disputes, and adjust deadlines or schedules. At least one week prior to each scheduled progress meeting, DDRW-Tracy will provide to the other Parties a draft agenda and summary of the status of the work subject to this Agreement. The minutes of each Remedial Project Manager meeting, with the meeting agenda and all documents discussed during the meeting (which were not previously provided) as attachments, shall be sent to all Remedial Project Managers by DDRW-Tracy within ten (10) business days after the meeting ends. The report shall include the information that would normally be discussed in a meeting of the Remedial Project Managers. Other meetings shall be held more frequently upon request by any Remedial Project Manager.

18.4 The authority of the Remedial Project Managers shall include, but is not limited to:

(a) Taking samples and ensuring that sampling and other field work is performed in accordance with the terms of any final work plan and QAPP;

(b) Observing, and taking photographs and making such other reports on the progress of the work as the Remedial Project Managers deem appropriate, subject to the limitations set forth in Section 25 (Access to Federal Facility) hereof;

(c) Reviewing records, files and documents relevant to the work performed;

(d) Determining the form and specific content of the Remedial Project Manager meetings and of progress reports based on such meetings; and

(e) Recommending and requesting minor field modifications to the work to be performed pursuant to a final work plan, or in techniques, procedures, or design utilized in carrying out such work plan.

18.5 Any minor field modification proposed by any Party pursuant to this Section must be approved orally by all Parties' Remedial Project Managers to be effective. DDRW-Tracy Remedial Project Manager will make a contemporaneous record of such

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modification and approval in a written log, and a copy of the log entry will be provided as part of the next progress report. Even after approval of the proposed modification, no Remedial Project Manager will require implementation by a government contractor without approval of the appropriate Government Contracting Officer.

18.6 The Remedial Project Manager for DDRW-Tracy shall be responsible for day-to-day field activities at the Site. DDRW-Tracy Remedial Project Manager or other designated employee of DDRW-Tracy shall be present at the Site or reasonably available to supervise work during all hours of work performed at the Site pursuant to this Agreement. For all times that DDRW-Tracy Remedial Project Manager is not present and such work is being performed, DDRW-Tracy Remedial Project Manager shall inform the Chief, Environmental Protection Office at DDRW-Tracy of the name and telephone number of the designated DDRW-Tracy or DDRW-Tracy contractor employee responsible for supervising the work.

18.7 The Remedial Project Managers shall be reasonably available to consult on work performed pursuant to this Agreement and shall make themselves available to each other for the pendency of this Agreement. The absence of EPA, DHS, RWQCB, or DDRW-Tracy Remedial Project Managers from the facility shall not be cause for work stoppage of activities taken under this Agreement.

19. PERMITS

19.1 The Parties recognize that under sections 121(d) and 121(e)(1) of CERCLA, 42 U.S.C. §§ 9621(d) and 9621(e)(1), and the NCP, portions of the response actions called for by this Agreement and conducted entirely on-site are exempted from the procedural requirement to obtain a federal, State, or local permit but must satisfy all the applicable or relevant and appropriate federal and State standards, requirements, criteria, or limitations which would have been included in any such permit.

19.2 This Section is not intended to relieve DDRW-Tracy from any and all regulatory requirements, including obtaining a permit, whenever it proposes a response action involving either the movement of hazardous substances, pollutants, or contaminants off site, or the conduct of a response action off site.

19.3 DDRW-Tracy shall notify EPA, DHS and RWQCB in writing of any permit required for off-site activities as soon as it becomes aware of the requirement. DDRW-Tracy agrees to obtain any permits necessary for the performance of any work under this Agreement. Upon request, DDRW-Tracy shall provide EPA, DHS and RWQCB copies of all such permit applications and other documents related to the permit process. Copies of permits obtained in implementing this Agreement shall be appended to the appropriate submittal or progress report. Upon request by DDRW-Tracy

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Remedial Project Manager, the Remedial Project Managers of EPA, DHS and RWQCB will assist DDRW-Tracy to the extent feasible in obtaining any required permit.

20. QUALITY ASSURANCE

20.1 In order to provide quality assurance and maintain quality control regarding all field work and sample collection performed pursuant to this Agreement, DDRW-Tracy agrees to designate a Quality Assurance Officer (QAO) who will ensure and document that all work is performed in accordance with approved work plans, sampling plans and QAPPs. The QAO shall maintain for inspection a log of quality assurance field activities and DDRW-Tracy Remedial Project Manager shall provide a copy to the Parties upon request.

20.2 To ensure compliance with the QAPP, DDRW-Tracy shall arrange for access, upon request by EPA or the State, to all laboratories performing analysis on behalf of DDRW-Tracy pursuant to this Agreement.

21. NOTIFICATION

21.1 All Parties shall transmit primary and secondary documents, and comments thereon, and all notices required herein by next day mail, hand delivery, or facsimile. At a minimum, two copies of each new primary or secondary document shall be sent to EPA and DHS, and one copy of each primary or secondary document to RWQCB. Time limitations shall commence upon receipt.

21.2 Notice to the Parties pursuant to this Agreement shall be sent to the individuals specified by the Parties in Attachment E. The addresses used shall be as follows:

Remedial Project Manager
U.S. Environmental Protection Agency, Region 9
Hazardous Waste Management Division, H-7-3
75 Hawthorne Street
San Francisco, CA 94105;

and

Remedial Project Manager
California Department of Health Services
Toxic Substances Control Program
Region 1,
10151 Croydon Way
Sacramento, CA 95827;

and

Remedial Project Manager
California Regional Water Quality Control Board

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Central Valley Region
3443 Routier Road
Sacramento, CA 95827-3098

and

Remedial Project Manager
Environmental Protection Office
Defense Distribution Region West
25600 South Chrisman Road
Tracy, CA 95376-5000

21.3 All routine correspondence may be sent via first class mail to the above addressees.

22. DATA AND DOCUMENT AVAILABILITY

22.1 Upon request by any party, each Party shall make the requested sampling results, test results or other data or documents generated through the implementation of this Agreement available to the other Parties. All requested quality assured data shall be supplied within sixty (60) days of its collection. If the quality assurance procedure is not completed within sixty (60) days, data or results without quality assurance shall be submitted within the sixty (60) day period and the requested quality assured data or results shall be submitted as soon as they become available.

22.2 The sampling Party's Remedial Project Manager shall notify the other Parties' Remedial Project Managers not less than ten (10) days in advance of any sample collection. If it is not possible to provide ten (10) days prior notification, the sampling Party's Remedial Project Manager shall notify the other Remedial Project Managers as soon as possible after becoming aware that samples will be collected. Each Party shall allow, to the extent practicable, split or duplicate samples to be taken by the other Parties or their authorized representatives.

23. RELEASE OF RECORDS

23.1 The Parties may request of one another access to or a copy of any record or document relating to this Agreement or the IRP. If the Party that is the subject of the request (the originating Party) has the record or document, that Party shall provide access to or a copy of the record or document; provided, however, that no access to or copies of records or documents need be provided if they are subject to claims of attorney-client privilege, attorney work product, deliberative process, enforcement confidentiality, or properly classified for national security under law or executive order.

23.2 Records or documents identified by the originating Party as confidential pursuant to other non-disclosure provisions

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of the Freedom of Information Act, 5 U.S.C. § 552, or the California Public Records Act, section 6250, et seq. of the California Government Code, shall be released to the requesting Party, provided the requesting Party states in writing that it will not release the record or document to the public without prior approval of the originating Party or after opportunity to consult and, if necessary, contest any preliminary decision to release a document, in accordance with applicable statutes and regulations. Records or documents which are provided to the requesting Party and which are not identified as confidential may be made available to the public without further notice to the originating Party.

23.3 The Parties will not assert one of the above exemptions, including any available under the Freedom of Information Act or California Public Records Act, even if available, if no governmental interest would be jeopardized by access or release as determined solely by that Party.

23.4 Subject to section 120(j)(2) of CERCLA, 42 U.S.C. § 9620(j)(2), any documents required to be provided by Section 7 (Consultation), and analytical data showing test results will always be releasable and no exemption shall be asserted by any Party.

23.5 This Section does not change any requirement regarding press releases in Section 26 (Public Participation and Community Relations).

23.6 A determination not to release a document for one of the reasons specified above shall not be subject to Section 12 (Dispute Resolution). Any Party objecting to another Party's determination may pursue the objection through the determining Party's appeal procedures.

24. PRESERVATION OF RECORDS

24.1 Despite any document retention policy to the contrary, the Parties shall preserve, during the pendency of this Agreement and for a minimum of ten (10) years after its termination, all records and documents contained in the Administrative Record and any additional records and documents retained in the ordinary course of business which relate to the actions carried out pursuant to this Agreement. After this ten (10) year period, each Party shall notify the other Parties at least forty-five (45) days prior to destruction of any such documents. Upon request by any Party, the requested Party shall make available such records or copies of any such records, unless withholding is authorized and determined appropriate by law.

25. ACCESS TO FEDERAL FACILITY

25.1 Without limitations on any authority conferred on EPA,

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DHS or RWQCB by statute or regulation, EPA, DHS or RWQCB or their authorized representatives, shall be allowed to enter DDRW-Tracy at reasonable times for purposes consistent with the provisions of the Agreement, subject to any statutory and regulatory requirements necessary to protect national security or mission essential activities. Such access shall include, but not be limited to, reviewing the progress of DDRW-Tracy in carrying out the terms of this Agreement; ascertaining that the work performed pursuant to this Agreement is in accordance with approved work plans, sampling plans and QAPPs; and conducting such tests as EPA, DHS, RWQCB, or the Remedial Project Managers deem necessary.

25.2 DDRW-Tracy shall honor all reasonable requests for access by the EPA, DHS or RWQCB, conditioned upon presentation of proper credentials including, if appropriate, proper evidence of required safety training. DDRW-Tracy Remedial Project Manager will provide briefing information, coordinate access and escort to restricted or controlled-access areas, arrange for base passes and coordinate any other access requests which arise.

25.3 EPA, DHS and RWQCB shall provide reasonable notice to DDRW-Tracy Remedial Project Manager to request any necessary escorts. EPA, DHS and RWQCB shall not use any camera, sound recording or other recording device at DDRW-Tracy without the permission of DDRW-Tracy Remedial Project Manager. DDRW-Tracy shall not unreasonably withhold such permission.

25.4 The access by EPA, DHS and RWQCB, granted in Subsection 25.1 of this Section, shall be subject to those regulations necessary to protect national security or mission essential activities. Such regulations shall not be applied so as to unreasonably hinder EPA, DHS or RWQCB from carrying out their responsibilities and authority pursuant to this Agreement. In the event that access requested by either EPA, DHS or RWQCB is denied by DDRW-Tracy, DDRW-Tracy shall provide an explanation within forty-eight (48) hours of the reason for the denial, including reference to the applicable regulations, and, upon request, a copy of such regulations. DDRW-Tracy shall expeditiously make alternative arrangements for accommodating the requested access. The Parties agree that this Agreement is subject to CERCLA section 120(j), 42 U.S.C. § 9620(j), regarding the issuance of Site Specific Presidential Orders as may be necessary to protect national security.

25.5 If EPA, DHS or RWQCB requests access in order to observe a sampling event or other work being conducted pursuant to this Agreement, and access is denied or limited, DDRW-Tracy agrees to reschedule or postpone such sampling or work if EPA, DHS or RWQCB so requests, until such mutually agreeable time when the requested access is allowed. DDRW-Tracy shall not restrict the access rights of the EPA, DHS or RWQCB to any greater extent than DDRW-Tracy restricts the access rights of its contractors performing work pursuant to this Agreement.

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25.6 All Parties with access to DDRW-Tracy pursuant to this Section shall comply with all applicable health and safety plans.

25.7 To the extent the activities pursuant to this Agreement must be carried out on other than DDRW-Tracy's property, DDRW-Tracy shall use its best efforts, including its authority, to the extent such authority is delegated to DDRW-Tracy, under CERCLA section 104, 42 U.S.C. § 9604, to obtain access agreements from the owners which shall provide reasonable access for DDRW-Tracy, EPA, DHS and RWQCB and their representatives. DDRW-Tracy may request the assistance of the State agencies in obtaining such access, and upon such request, the State agencies will use their best efforts to obtain the required access. In the event that DDRW-Tracy is unable to obtain such access agreements, DDRW-Tracy shall promptly notify EPA, DHS and RWQCB.

25.8 With respect to non-DDRW-Tracy property on which monitoring wells, pumping wells, or other response actions are to be located, DDRW-Tracy shall use its best efforts to ensure that any access agreements shall provide for the continued right of entry for all Parties for the performance of such remedial activities. In addition, any access agreement shall provide that no conveyance of title, easement, or other interest in the property shall be consummated without the continued right of entry.

25.9 Nothing in this Section shall be construed to limit EPA's, DHS's and RWQCB's full right of access as provided in section 104(e) of CERCLA, 42 U.S.C. § 9604(e), and California Health and Safety Code section 25185, except as that right may be limited by section 120(j)(2) of CERCLA, 42 U.S.C. § 9620(j)(2), Executive Order 12580, or other applicable national security regulations or federal law.

26. PUBLIC PARTICIPATION AND COMMUNITY RELATIONS

26.1 The Parties agree that any proposed removal actions and remedial action alternative(s) and plan(s) for remedial action at the Site arising out of this Agreement shall comply with the administrative record and public participation requirements of CERCLA sections 113(k) and 117, 42 U.S.C. §§ 9613(k) and 9617, relevant community relations provisions in the NCP, EPA guidances, and, to the extent they may apply, State statutes and regulations. DHS agrees to inform DDRW-Tracy of all State requirements which it believes pertain to public participation. The provisions of this Section shall be carried out in a manner consistent with, and shall fulfill the intent of, Section 17 (Statutory Compliance - RCRA/CERCLA Integration).

26.2 DDRW-Tracy shall develop and implement a CRP addressing the environmental activities and elements of work undertaken by DDRW-Tracy.

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26.3 DDRW-Tracy shall establish and maintain an administrative record at a place, at or near the federal facility, which is freely accessible to the public, which record shall provide the documentation supporting the selection of each response action. The administrative record shall be established and maintained in accordance with relevant provisions in CERCLA, the NCP, and EPA guidances. A copy of each document placed in the administrative record, not already provided, will be provided by DDRW-Tracy to the other Parties. The administrative record developed by DDRW-Tracy shall be updated and new documents supplied to the other Parties on at least a quarterly basis. An index of documents in the administrative record will accompany each update of the administrative record.

26.4 Except in case of an emergency, any Party issuing a press release, or a notice pursuant to Section 8 or Section 36, either of which reference any work required by this Agreement, shall advise the other Parties of such press release or notice, at least forty-eight (48) hours prior to issuance or two (2) business days, whichever is longer.

27. FIVE YEAR REVIEW

27.1 Consistent with section 121(c) of CERCLA, 42 U.S.C. § 9621(c), and in accordance with this Agreement, if the selected remedial action results in any hazardous substances, pollutants or contaminants remaining at the Site, the Parties shall review the remedial action program at least every five (5) years after the initiation of the final remedial action to assure that human health and the environment are being protected by the remedial action being implemented.

27.2 If, upon such review, any of the Parties proposes additional work or modification of work, such proposal shall be handled under Subsection 7.10 of this Agreement.

27.3 To synchronize the five-year reviews for all operable units and final remedial actions, the following procedure will be used: Review of operable units will be conducted every five years counting from the initiation of the first operable unit, until initiation of the final remedial action for the Site. At that time a separate review for all operable units shall be conducted. Review of the final remedial action (including all operable units) shall be conducted every five years thereafter.

28. TRANSFER OF REAL PROPERTY

28.1 No change in the ownership of the DDRW-Tracy shall in any way alter the responsibilities of the Parties under this Agreement. DDRW-Tracy shall not transfer any real property comprising the federal facility except in compliance with section 120(h) of CERCLA, 42 U.S.C. § 9620(h). Prior to any sale of any portion of the land comprising the federal facility which

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includes an area within which any release of hazardous substance has come to be located, or any property which is necessary for proceeding with the remedial action, DDRW-Tracy shall give written notice of that condition to the buyer of the land. At least thirty (30) days prior to any conveyance subject to section 120(h) of CERCLA, 42 U.S.C. § 9620(h), DDRW-Tracy shall notify all Parties of the transfer of any real property subject to this Agreement and the provisions made for any additional remedial actions, if required.

28.2 Until six (6) months following the effective date of the final regulations implementing CERCLA section 120(h)(2), 42 U.S.C. § 9620(h)(2), DDRW-Tracy agrees to comply with the most recent version of the regulations as proposed and all other substantive and procedural provisions of CERCLA section 120(h), 42 U.S.C. § 9620(h), and Subsection 28.1 of this Section.

29. AMENDMENT OR MODIFICATION OF AGREEMENT

29.1 This Agreement can be amended or modified solely upon written consent of all Parties. Such amendments or modifications may be proposed by any Party and shall be effective the third business day following the day the last Party to sign the amendment or modification sends its notification of signing to the other Parties. The Parties may agree to a different effective date.

30. TERMINATION OF THE AGREEMENT

30.1 The provisions of this Agreement shall be deemed satisfied and terminated upon receipt by DDRW-Tracy of written notice from EPA, with concurrence of DHS and RWQCB, that the DDRW-Tracy has demonstrated that all the terms of this Agreement have been completed. If EPA denies or otherwise fails to grant a termination notice within ninety (90) days of receiving a written DDRW-Tracy request for such notice, EPA shall provide a written statement of the basis for its denial and describe DDRW-Tracy actions which, in the view of EPA, would be a satisfactory basis for granting a notice of completion. Such denial shall be subject to dispute resolution.

30.2 This provision shall not affect the requirements for periodic review at maximum five (5) year intervals of the efficacy of the remedial actions.

31. COVENANT NOT TO SUE AND RESERVATION OF RIGHTS

31.1 In consideration for DDRW-Tracy's compliance with this Agreement, and based on the information known to the Parties or reasonably available on the effective date of this Agreement, EPA, DDRW-Tracy, DHS and RWQCB agree that compliance with this Agreement shall stand in lieu of any administrative, legal, and equitable remedies against DDRW-Tracy available to them regarding

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the releases or threatened releases of hazardous substances including hazardous wastes, pollutants or contaminants at the Site which are the subject of any RI/FS conducted pursuant to this Agreement and which have been or will be adequately addressed by the remedial actions provided for under this Agreement.

31.2 Notwithstanding this Section, or any other Section of this Agreement, DHS and RWQCB shall retain any statutory right they may have to obtain judicial review of any final decision of the EPA on selection of remedial action pursuant to any authority DHS and RWQCB may have under CERCLA, including sections 121(e)(2), 121(f), 310 and 113, 42 U.S.C. §§ 9621(e)(2), 9621(f), 9659 and 9613.

32. OTHER CLAIMS

32.1 Nothing in this Agreement shall constitute or be construed as a bar or release from any claim, cause of action or demand in law or equity by or against any person, firm, partnership or corporation not a signatory to this Agreement for any liability it may have arising out of or relating in any way to the generation, storage, treatment, handling, transportation, release, or disposal of any hazardous substances, hazardous waste, pollutants, or contaminants found at, taken to, or taken from the federal facility. Unless specifically agreed to in writing by the Parties, EPA, DHS and RWQCB shall not be held as a party to any contract entered into by DDRW-Tracy to implement the requirements of this Agreement.

32.2 This agreement shall not restrict EPA, DHS or RWQCB from taking any legal or response action for any matter not part of the subject matter of this Agreement.

33. RECOVERY OF EPA EXPENSES

33.1 The Parties agree to amend this Agreement at a later date in accordance with any subsequent national resolution of the issue of cost reimbursement. Pending such resolution, EPA reserves any rights it may have with respect to cost reimbursement.

34. STATE SUPPORT SERVICES

34.1 Compensation for state support services rendered in connection with this Agreement is governed by the provisions of the Defense/State Memorandum of Agreement (DSMOA) which was executed on May 31, 1990, between DHS on behalf of the State of California and the Department of Defense.

34.2. In the event that the DSMOA is terminated or no longer in effect for any reason, and until a new DSMOA takes effect, the Parties agree to the provisions in this Subsection

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and the remainder of Section 34. DDRW-Tracy agrees to request funding and reimburse the State, subject to the conditions and limitations set forth in this Section, and subject to Section 15 (Funding), for all reasonable costs it incurs in providing services in direct support of DDRW-Tracy's environmental restoration activities pursuant to this Agreement at the Site.

34.3 Reimbursable expenses shall consist only of actual expenditures required to be made and actually made by the State in providing the following assistance to DDRW-Tracy:

(a) Timely technical review and substantive comment on reports or studies which DDRW-Tracy prepares in support of its response actions and submits to the State;

(b) Identification and explanation of unique State requirements applicable to military installations in performing response actions, especially State applicable or relevant and appropriate requirements (ARARs);

(c) Field visits to ensure investigations and clean-up activities are implemented in accordance with appropriate State requirements, or in accordance with agreed upon conditions between the State and DDRW-Tracy that are established in the framework of this Agreement;

(d) Support and assistance to DDRW-Tracy in the conduct of public participation activities in accordance with federal and State requirements for public involvement;

(e) Participation in the review and comment functions of DDRW-Tracy Technical Review Committees; and

(f) Any other services specified in this Agreement.

34.4 Within ninety (90) days after the end of each quarter of the federal fiscal year, the State shall submit to DDRW-Tracy an accounting of all State costs actually incurred during that quarter in providing direct support services under this Section. Such accounting shall be accompanied by cost summaries and be supported by documentation which meets federal auditing requirements. The summaries will set forth employee-hours and other expenses by major type of support service. All costs submitted must be for work directly related to implementation of this Agreement and not inconsistent with either the National Contingency Plan (NCP) or the requirements described in OMB Circulars A-87 (Cost Principles for State and Local Governments) and A-128 (Audits for State and Local Cooperative Agreements with State and Local Governments) and Standard Forms 424 and 270. DDRW-Tracy has the right to audit cost reports used by the State to develop the cost summaries. Before the beginning of each fiscal year, the State shall supply a budget estimate of what it plans to do in the next year in the same level of detail as the

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billing documents.

34.5 Except as allowed pursuant to Subsections 34.6 and 34.7 below, within ninety (90) days of receipt of the accounting provided pursuant to Subsection 34.4 above, DDRW-Tracy shall reimburse the State in the amount set forth in the accounting.

34.6 In the event DDRW-Tracy contends that any of the costs set forth in the accounting provided pursuant to Subsection 34.4 above are not properly payable, the matter shall be resolved through a bilateral dispute resolution process set forth at Subsection 34.10 below.

34.7 DDRW-Tracy shall not be responsible for reimbursing the State for any costs actually incurred in the implementation of this Agreement in excess of one percent (1%) of DDRW-Tracy's total lifetime project costs incurred through construction of the remedial action(s). This total reimbursement limit is currently estimated to be a sum of \$200,000.00 over the life of the Agreement. Circumstances could arise whereby fluctuations in DDRW-Tracy estimates or actual final costs through the construction of the final remedial action creates a situation where the State receives reimbursement in excess of one percent of these costs. Under these circumstances, the State remains entitled to payment for services rendered prior to the completion of a new estimate if the services are within the ceiling applicable under the previous estimate. This Section (34) does not cover the costs of services rendered prior to October 17, 1986; services at properties not owned by the Federal government; and activities funded from sources other than Defense Environmental Restoration Account appropriations.

(a) Funding of support services must be constrained so as to avoid unnecessary diversion of the limited Defense Environmental Restoration Account funds available for the overall cleanup, and

(b) Support services should not be disproportionate to overall project costs and budget.

34.8 Either DDRW-Tracy or the State may request, on the basis of significant upward or downward revisions in DDRW-Tracy's estimate of its total lifetime costs through construction used in Subsection 34.7 above, a renegotiation of the cap. Failing an agreement, either DDRW-Tracy or the State may initiate dispute resolution in accordance with Subsection 34.10 below.

34.9 The State agrees to seek reimbursement for its expenses solely through the mechanisms established in this Section, and reimbursement provided under this Section shall be in settlement of any claims for State response costs relative to DDRW-Tracy's environmental restoration activities at the Site.

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34.10 Section 12 (Dispute Resolution) notwithstanding, this Subsection shall govern any dispute between DDRW-Tracy and the State regarding the application of this Section or any matter controlled by this Section including, but not limited to, allowability of expenses and limits on reimbursement. The provisions of Subsection 12.8 (State single voice) shall apply to this Section. While it is the intent of DDRW-Tracy and the State that these procedures shall govern resolution of disputes concerning State reimbursement, informal dispute resolution is encouraged.

(a) DDRW-Tracy and State Remedial Project Managers shall be the initial points of contact for coordination of dispute resolution under this Subsection.

(b) If DDRW-Tracy, DHS and RWQCB Remedial Project Managers are unable to resolve a dispute, the matter shall be referred to the DRC representatives (see Subsection 12.4) of DHS and RWQCB, and the DDRW Commander, as soon as practicable, but in any event within five (5) working days after the dispute is elevated by the Remedial Project Managers.

(c) If DDRW Commander and the DRC representatives of DHS and RWQCB are unable to resolve the dispute within ten (10) working days, the matter shall be elevated to SEC representatives (see Subsection 12.6) of DHS and RWQCB, and the Staff Director for the Office of Installation Service and Environmental Protection.

(d) In the event the Staff Director for the Office of Installation Service and Environmental Protection and the SEC representatives of DHS and RWQCB are unable to resolve a dispute, the State retains any legal and equitable remedies it may have to recover its expenses. In addition, DHS and/or RWQCB may withdraw from this Agreement by giving sixty (60) days notice to the other Parties.

34.11 Nothing herein shall be construed to limit the ability of DDRW-Tracy to contract with the State for technical services that could otherwise be provided by a private contractor including, but not limited to:

(a) Identification, investigation, and cleanup of any contamination beyond the boundaries of DDRW-Tracy;

(b) Laboratory analysis; or

(c) Data collection for field studies.

34.12 Nothing in this Agreement shall be construed to constitute a waiver of any claims by the State for any expenses incurred prior to the effective date of this Agreement, or of any other non-reimbursable costs.

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35. STATE PARTICIPATION CONTINGENCY

35.1 If either or both of the State agencies fail to sign this Agreement within thirty (30) days of notification of the signature by both EPA and DDRW-Tracy, this Agreement will be interpreted as if the non-signing agency(ies) were not a Party and any reference to such agency(ies) in this Agreement will have no effect. In addition, all other provisions of this Agreement notwithstanding, if either or both of the State agencies does not sign this Agreement within the said thirty (30) days, DDRW-Tracy shall only have to comply with any State requirements, conditions, or standards, including those specifically listed in this Agreement, which DDRW-Tracy would otherwise have to comply with absent this Agreement.

35.2 In the event that DHS or RWQCB does not sign this Agreement:

(a) DDRW-Tracy agrees to transmit all primary and secondary documents to appropriate State and local agencies at the same time such documents are transmitted to EPA; and

(b) EPA intends to consult with the appropriate State agencies with respect to the above documents and during implementation of this Agreement.

36. EFFECTIVE DATE AND PUBLIC COMMENT

36.1 This Agreement is effective upon signature by DDRW-Tracy, DHS, RWQCB, and EPA.

36.2 For the purposes of this Section, modifications to this Agreement will not follow the procedures specified in Section 29, but will follow the procedures specified in Subsections 36.4(b) and 36.4(c).

36.3 The provisions of this Section shall be carried out in a manner consistent with, and shall fulfill the intent of Section 17 (Statutory Compliance - RCRA/CERCLA Integration).

36.4 Within fifteen (15) days of the date on which EPA signs this Agreement, DDRW-Tracy shall announce the availability of this Agreement to the public for a forty-five (45) day period of review and comment, including publication in at least two major local newspapers of general circulation. Comments received shall be transmitted promptly by DDRW-Tracy to the other Parties after the end of the comment period. Within fifteen (15) days after the close of the public comment period, the Parties shall review such comments and shall either:

(a) Determine that this Agreement should remain effective in its present form, EPA will then promptly notify all

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Parties in writing; or

(b) If the determination in Subsection 36.4(a) is not made, the Parties shall meet within 30 days after the close of the public comment period, or within such other time period mutually agreed upon by the Parties, to discuss and agree upon any proposed changes. If all the Parties agree upon the proposed changes, the Agreement, as modified, shall be re-executed by the Parties, with EPA signing last, and the shall become effective upon the date it is signed by EPA; or

(c) If the Parties do not mutually agree on all changes, the Parties shall submit their written notices of position, concerning those provisions still in dispute, directly to the Dispute Resolution Committee, and the procedures of Section 12 (Dispute Resolution) shall be applied to the disputed provisions. Upon resolution of any proposed changes, the Agreement, as modified within the twenty-one (21) days specified in Subsection 12.11, shall be re-executed by the Parties, with EPA signing last, and shall become effective on the date that it is signed by EPA.

36.5 Absent or pending modifications to the Agreement, the Agreement will remain effective in its form as originally executed upon signature of DDRW-Tracy, EPA, and DHS and/or the RWQCB.

36.6 Any response action underway upon the effective date of this Agreement shall be subject to oversight by the Parties.

37. BASE CLOSURE

37.1 The Defense Logistics Agency does not currently plan to close DDRW-Tracy. However, in the event that DDRW-Tracy is closed, such closure, except as is otherwise specifically provided by law, will not affect the Defense Logistic Agency's obligation to comply with the terms of this Agreement and to specifically ensure the following:

(a) continuing rights of access for EPA, DHS, and the RWQCB in accordance with the terms and conditions of Section 25 (Access to DDRW-Tracy);

(b) availability of a DDRW-Tracy Remedial Project Manager to fulfill the terms and conditions of the Agreement;

(c) designation of alternate DRC members as appropriate for the purposes of implementing Section 12 (Dispute Resolution); and

(d) adequate resolution of any other problems identified by the Remedial Project Managers regarding the effect of base closure on implementation of this Agreement.

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38. REPORTING REQUIREMENTS

38.1 DDRW-Tracy agrees to provide written progress reports to the other Parties. To facilitate discussion at the Quarterly Remedial Project Manager's meeting, the report should include:

(a) a brief summary of all removal, remedial and investigation activities from the previous quarter, including any analytical results, groundwater monitoring results, and any matters involving community relations activities and contacts relative to the hazardous substance cleanup at the Site;

(b) an outline of the planned activities for the upcoming quarter;

(c) a brief statement of the manner and extent to which deadlines are being met;

(d) the status of obtaining the rights-of-entry necessary for monitoring and well installation off the Federal Facility. The status should also include requests for assistance from the other Parties in this endeavor, where necessary;

(e) any known problems which may at a later time result in delays in meeting deadlines or require a request for an Extension under Section 9 of this Agreement;

(f) a revised Appendix A and/or Appendix D to include changes or additions to the deadlines which are agreed upon by the Parties.

38.2 DDRW-Tracy shall provide a written quarterly progress report to the Parties on or before the thirtieth (30th) day of each calendar quarter.

39. APPENDICES AND ATTACHMENTS

39.1 Appendices shall be an integral and enforceable part of this Agreement. They shall include the most current versions of:

(a) Deadlines previously established;

(b) The list of all final primary and secondary documents which will be created in accordance with Section 7 (Consultation) and Section 8 (Deadlines);

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(c) Site-specific outline of key elements to be included in draft and draft final RI/FS Workplan; and

(d) All deadlines which will be established in accordance with Section 8 (Deadlines) and which may be extended in accordance with Section 9 (Extensions); and

39.2 Attachments shall be for information only and shall not be enforceable parts of this Agreement. The information in these attachments is provided to support the initial review and comment upon this Agreement, and they are only intended to reflect the conditions known at the signing of this Agreement. None of the facts related therein shall be considered admissions by, nor are they legally binding upon, any Party with respect to any claims unrelated to, or persons not a Party to, this Agreement. They shall include:

- (a) Map(s) of federal facility (see Subsection 5.12;
- (b) Chemicals of Concern;
- (c) Statement of Facts;
- (d) Installation Restoration Program History; and
- (e) Names of the Remedial Project Managers for each Party.

DDRW-Tracy Federal Facility Agreement

Each undersigned representative of a Party certifies that he or she is fully authorized to enter into the terms and conditions of this Agreement and to legally bind such Party to this Agreement.

DDRW-Tracy

DATE

JAMES M. LABOUNTY
Colonel, USA
Commander

UNITED STATES ENVIRONMENTAL
PROTECTION AGENCY

6.27.91
DATE

Daniel W. McGovern
DANIEL W. MCGOVERN
Regional Administrator
U.S. Environmental Protection Agency
Region 9

STATE OF CALIFORNIA
DEPARTMENT OF HEALTH SERVICES

DATE

VAL F. SIEBAL
Regional Administrator, Region 1
California Department of Health Services
Toxic Substances Control Program

CALIFORNIA REGIONAL WATER QUALITY
CONTROL BOARD, CENTRAL VALLEY REGION

DATE

WILLIAM H. CROOKS
Executive Officer
California Regional Water Quality
Control Board
Central Valley Region

DDRW-Tracy Federal Facility Agreement

Each undersigned representative of a Party certifies that he or she is fully authorized to enter into the terms and conditions of this Agreement and to legally bind such Party to this Agreement.

DDRW-Tracy



DATE

JAMES W. LaBOUNTY
Colonel, USA
Commander

UNITED STATES ENVIRONMENTAL
PROTECTION AGENCY

DATE

DANIEL W. McGOVERN
Regional Administrator
U.S. Environmental Protection Agency
Region 9

STATE OF CALIFORNIA
DEPARTMENT OF HEALTH SERVICES

DATE

VAL F. SIEBAL
Regional Administrator, Region 1
California Department of Health Services
Toxic Substances Control Program

CALIFORNIA REGIONAL WATER QUALITY
CONTROL BOARD, CENTRAL VALLEY REGION

DATE

WILLIAM H. CROOKS
Executive Officer
California Regional Water Quality
Control Board
Central Valley Region

DDRW-Tracy Federal Facility Agreement

Each undersigned representative of a Party certifies that he or she is fully authorized to enter into the terms and conditions of this Agreement and to legally bind such Party to this Agreement.

DDRW-Tracy

DATE

JAMES M. LABOUNTY
Colonel, USA
Commander

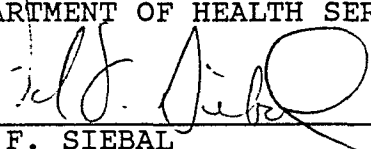
UNITED STATES ENVIRONMENTAL
PROTECTION AGENCY

DATE

DANIEL W. MCGOVERN
Regional Administrator
U.S. Environmental Protection Agency
Region 9

STATE OF CALIFORNIA
DEPARTMENT OF HEALTH SERVICES

6-25-91
DATE



VAL F. SIEBAL
Regional Administrator, Region 1
California Department of Health Services
Toxic Substances Control Program

CALIFORNIA REGIONAL WATER QUALITY
CONTROL BOARD, CENTRAL VALLEY REGION

DATE

WILLIAM H. CROOKS
Executive Officer
California Regional Water Quality
Control Board
Central Valley Region

DDRW-Tracy Federal Facility Agreement

(c) Site-specific outline of key elements to be included in draft and draft final RI/FS Workplan; and

(d) All deadlines which will be established in accordance with Section 8 (Deadlines) and which may be extended in accordance with Section 9 (Extensions); and

39.2 Attachments shall be for information only and shall not be enforceable parts of this Agreement. The information in these attachments is provided to support the initial review and comment upon this Agreement, and they are only intended to reflect the conditions known at the signing of this Agreement. None of the facts related therein shall be considered admissions by, nor are they legally binding upon, any Party with respect to any claims unrelated to, or persons not a Party to, this Agreement. They shall include:

- (a) Map(s) of federal facility (see Subsection 5.12;
- (b) Chemicals of Concern;
- (c) Statement of Facts;
- (d) Installation Restoration Program History; and
- (e) Names of the Remedial Project Managers for each Party.

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6-26-91

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Appendix A

Timetable and Deadlines for Select Primary Documents

This Appendix contains a schedule of deadlines for submittal of primary documents. All Parties have agreed to this schedule before or on the effective date of this Agreement. Deadlines for submittal of additional primary documents identified in Appendix B shall be proposed by DLA pursuant to Section 8 (Deadlines) of this Agreement.

Additional OU remedial actions may be proposed at a later date by any Party. For any future OUs agreed upon by all the Parties, DLA will also propose a schedule(s) of deadlines for submittal of primary documents in accordance with Section 8.4.

Submittals:

Deadlines:

Draft Community Relations Plan

August 1, 1991

(Based on 1986 Community Relations Plan.
Current plan to be Site-wide and provide summary
of community relations work done to date.)

Draft Site-Wide RI/FS Workplan

January 6, 1992

(To include but not be limited to:
the SWMU Report recommendations for soil
characterization, soil investigations in
UST areas, soil investigations about
the industrial sewer line and industrial lagoons,
and any soil areas recommended for characterization
in the Woodward-Clyde February, 1991 draft RI/FS Report.

The reports delineated below are to be developed under contracts entered into by DDRW-Tracy prior to signature of this Agreement. Only two issuances of each report were stipulated under each respective contract. For the purposes of Consultation (Section 7), these reports will be reviewed in the following manner:

The regulatory agencies will provide written comments on the first draft (Draft) of a given report. The second draft (Draft Final) of the report will address the agencies' written comments. Any outstanding issues that remain after issuance of the second draft of the report shall be addressed within the above **Draft Site-wide RI/FS Workplan**.

Draft Solid Waste Management Unit Investigation Report

June 7, 1991

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Draft Engineering Report for the
Well Monitoring Program
(Report concerning the 1st year
sampling results)

July 10, 1992

Draft 1st Quarter Report of the
Well Monitoring Program

August 16, 1991

Draft Abandoned Waterwell Evaluation
Workplan

October 15, 1991

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Appendix B

List of Primary and Secondary Submittals

DLA agrees to conduct RI/FS and RD/RA activities pursuant to Section 6, (WORK TO BE PERFORMED), and Appendix C (RI/FS WORKPLAN OUTLINE) of this Agreement. DLA shall submit the following primary and secondary documents for each remedial action, i.e., all operable unit remedial actions and the final Site-wide remedial action:

Primary Documents shall be submitted as per Subsection 7.3:

Remedial Investigation (RI)/Feasibility Study (FS) Work Plans

Sampling and Analysis Plans

[To include Quality Assurance Project Plans (QAPPs) and Field Sampling Plans (FSPs)]

Well Monitoring Program Report

[This report shall not be submitted for each remedial action. This report shall undergo an annual revision to meet evolving data needs for different phases of response activity at DDRW, including but not limited to: remedial investigations, remedial actions, and long-term monitoring. Any changes to this report may be proposed by any Party and shall be reviewed in accordance with Section 7 (Consultation) and shall be subject to Section 12 (Dispute Resolution).]

RI Reports

(RI reports will incorporate Baseline Risk Assessments. The Site-wide Baseline Risk Assessment will examine the aggregate Site-wide risks, including a review of the OU Baseline Risk Assessments.)

FS Reports

Proposed Plans

(OU RI/FS Reports accompany the OU Proposed Plans when the Plans are released for Public Comment. The Site-wide RI/FS Report accompanies the Site-wide Proposed Plan when the Plan is released for Public Comment.)

Records of Decision (ROD)

(These documents must include responsiveness summaries and schedules for: issuance of draft remedial designs; completion of constructions; issuance of draft remedial action operations plans; and commencement dates for the remedial actions.)

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Draft Final OU 1 RI Report

(At this time, the Parties have identified Operable Unit 1 as addressing the groundwater contamination in the northern area of DDRW-Tracy.)

Draft Final OU 1 Baseline Risk Assessment

Draft Final OU 1 FS Report

Primary Documents shall be submitted as per Subsection 8.3:

RD/RA Workplans

Preliminary Remedial Designs

Final Remedial Designs

Construction QA Plans

Construction QC Plans

Project Closeout Plans

Secondary Documents shall be submitted as per Subsection 7.4:

Scopes of Work [not part of a primary document, this document is a secondary document for the purposes of Consultation (Section 7)]

Site Characterization Summaries and Updates

Baseline Risk Assessment Reports (Report includes Human Health Evaluations and Environmental Evaluations.)

Initial Screening of Remedial Alternatives

Post Screening Investigation Work Plans

ARARs Assessment Reports

Detail Analysis of Alternatives

Treatability Study Reports

Contingency Plans (part of Final Remedial Designs)

Well Closure Reports

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Appendix C RI/FS Work Plan Outline

For any Operable Unit remedial actions and the final Site-wide remedial action, DDRW-Tracy shall develop a RI/FS Work Plan which shall include, but not necessarily be limited to, the tasks delineated below. Any Party may request modification of any task of this Appendix in writing and shall specify:

1. The reason(s) for requesting the modification,
2. A clear description of the requested modification, and
3. Timetable and deadlines affected by the requested modification.

This Appendix may be modified upon written agreement among all the the Project Managers. If agreement cannot be reached among the Parties with respect to proposed modifications to this Outline, the Parties will use the procedures prescribed in Section 12 (Dispute Resolution) of this Agreement.

1.0 PLAN OBJECTIVES: DDRW-Tracy shall present the objectives of the study in a RI/FS Workplan. Information and findings from past RI/FS efforts may be utilized as appropriate to establish objectives for this workplan. The objectives shall include a discussion of efforts to:

- 1.1 Confirm, characterize, and define the lateral and vertical extent of contamination for all affected media, i.e., groundwater, surface water, soil, and/or air;
- 1.2 Characterize the geographical, geological, and hydrological conditions of the Site;
- 1.3 Identify all existing and potential sources of contamination, and identify contaminant migration pathways;
- 1.4 Identify Federal and state applicable or relevant and appropriate requirements (ARARs);
- 1.5 Develop data quality objectives based on site-specific conditions;
- 1.6 Present a conceptual Site model;
- 1.7 Prepare and present a Site-wide Human Health and Environmental Evaluation employing reliable RI/FS information and data;
- 1.8 Modify the workplan based on new information received during the course of the investigation.

2.0 REMEDIAL INVESTIGATION

(A) Description of the Current Status of the Site Investigation

- 2.1 Site Description
- 2.2 Site History
- 2.3 Present a summary of findings from previous investigations for the items below:
 - 2.3.1 Ground Water Release Characterization
 - 2.3.2 Surface Water Release Characterization
 - 2.3.3 Subsoil Release Characterization

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- 2.3.4 Air Release Characterization
- 2.3.5 Geological Study Results
- 2.3.6 Hydrological Study Results
- 2.3.7 Ecological Study Results
- 2.3.8 Meteorological Study Results
- 2.3.9 Soils and Vadose Zone Study Results
- 2.4 Summary of response actions taken to date and relationship to the planned activities within the workplan
 - 2.4.1 Removal actions
 - 2.4.2 Interim groundwater remedial actions
 - 2.4.3 Integration of abandoned well survey results
 - 2.4.4 Results of soils investigations involving underground storage tank removals
 - 2.4.5 Planned uses for data generated as part of the quarterly groundwater monitoring program
- 2.5 Site demographic information and potential human health and environmental impacts
- 2.6 Data evaluation/validation of past investigations

(B) Agency Coordination and Site Planning

- 2.1 Health Assessment - DDRW-Tracy shall provide the Agency for Toxic Substances and Disease Registry (ATSDR) with all necessary environmental investigation results, including that of the Remedial Investigation, so that ATSDR may conduct a Health Assessment for DDRW-Tracy.
- 2.2 Natural Resources Damage Assessment (NRDA) - DDRW-Tracy shall coordinate this Assessment with the U.S. Fish and Wildlife Service (USFWS) so that it can conduct a NRDA at DDRW-Tracy. The results of this Assessment may be used as part of the Environmental Evaluation.
- 2.3 Early and continuous ARARs identification - ARARs can be identified only on a site-specific basis. ARARs shall be identified at the following stages in the remedial planning process:
 - During scoping of RI/FS
 - During site characterization phase
 - During development of remedial alternatives in the FS
 - During screening of alternatives
 - During detail analysis of alternatives
 - When the preferred alternative(s) is selected
- 2.3.1 Identify Ambient or Chemical-Specific ARARs
- 2.3.2 Identify Performance, Design, or Action-Specific ARARs
- 2.3.3 Identify Location-Specific ARARs
- 2.4 Preparation of Plans - Existing plans may or may not be used. The plans delineated below will be subject to Consultation (Section 7).
 - 2.4.1 Sampling and Analysis Plan (SAP) - To include a Quality Assurance Project Plan (QAPP)[®] and a Field Sampling Plan (FSP)[®]; data management procedures are to be delineated
 - 2.4.2 Data Management Plan - DDRW-Tracy shall develop a plan which establishes a standard format or approach for the development, acquisition and documentation of data. This format must be used consistently for all investigative efforts so that DDRW-Tracy can

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effectively track data over time and can make decisions with a higher degree of confidence.

2.4.3 Health and Safety Plans (H&SP)

2.4.4 Community Relations Plan (CRP)

The investigations conducted pursuant to the tasks delineated in sections (C) 2.1 through 2.5 below should generate data of adequate quality to characterize the site and its actual or potential risks to human health and environment, and to support the development and evaluation of remedial alternatives during the FS.

(C) Site Characterization - The elements below shall be incorporated in the RI/FS Workplan.

As appropriate, information and findings from past RI/FS efforts may be presented in a summary form. For RI work not yet performed, the Workplan shall propose the scope of the activities needed to address such work.

- 2.1 Definition of Environmental Settings
 - 2.1.1 Regional Physiography and Topography
 - 2.1.2 Regional & Site Geology
 - 2.1.2.1 Stratigraphy
 - 2.1.2.2 Soils' attenuation capacity and mechanisms
 - 2.1.2.3 Other soil properties: structure, porosity, mineralogy, grain size distribution
 - 2.1.2.4 Regional geology
 - 2.1.2.5 Site geology
 - 2.1.3 Regional & Site Hydrogeology
 - 2.1.3.1 Hydraulic testings: obtain data for the development and evaluation of alternatives in the FS
 - 2.1.3.2 Aquifer tests to determine aquifer parameters and extent of connection between aquifers
 - 2.1.3.3 Determine depths of water tables
 - 2.1.3.4 Determine groundwater flow direction(s) (if seasonably variable)
 - 2.1.3.5 Define areas of recharge, discharge, and sea water intrusion
 - 2.1.3.6 Vertical gradients
 - 2.1.3.7 Hydraulic barriers (faults, bedrock, constant head sources)
 - 2.1.3.8 Vadose zone monitoring: moisture content, unsaturated conductivities and relative permeabilities
 - 2.1.3.9 Regional groundwater quality
 - 2.1.3.10 Flow model(s)
 - 2.1.4 Regional and Site meteorology and air quality
 - 2.1.5 Regional and Site surface water quality
 - 2.1.6 Regional and Site land use/demographics
 - 2.1.7 Regional and Site ecology
- 2.2 Source Characterization Plan (work to be performed should result from an evaluation of previous studies and other existing data, see sections 2.3 and 2.4 above)
 - 2.2.1 Groundwater characterization (contaminant-specific)

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- 2.2.1.1 Vertical & horizontal extent of migration
 - 2.2.1.2 Rate of migration
 - 2.2.1.3 Groundwater monitoring/contaminants transport model(s)
 - 2.2.1.4 Locations and sample frequencies
 - 2.2.1.5 Sampling techniques/ methods/analysis
 - 2.2.1.6 Quality assured monitoring & sampling results shall be presented in Progress Reports
- 2.2.2 Contaminated Surface Water Characterization (contaminant-specific)
 - 2.2.2.1 Route of surface water contamination
 - 2.2.2.2 Locations and sampling frequencies
 - 2.2.2.3 Sampling techniques/ methods/analysis
 - 2.2.2.4 Quality assured monitoring and sampling results shall be presented in Progress Reports
- 2.2.3 Contaminated Surface, Subsurface Soil, and Sediment Characterization (contaminant-specific)
 - 2.2.3.1 Specific areas to be studied
 - 2.2.3.2 Vertical & horizontal extent of contamination
 - 2.2.3.3 Probable quantities of subsurface wastes
 - 2.2.3.4 Rate of vertical migration
 - 2.2.3.5 Predict contaminants decomposition rates and breakdown products
 - 2.2.3.6 Correlation between subsoil contamination levels and groundwater contaminants
 - 2.2.3.7 Locations and sampling frequencies
 - 2.2.3.8 Sampling techniques/methods/analysis
 - 2.2.3.9 Quality assured sampling results shall be presented in Progress Reports
- 2.2.4 Evaluate the requirements for investigating air emissions, and determine the extent of contamination resulting from air emissions; in particular, airborne particulates and volatilization of organics. (contaminant-specific)
 - 2.2.4.1 Tendency of substances to enter the atmosphere
 - 2.2.4.2 Air monitoring program (based on information from study of contaminated surface soils)
 - 2.2.4.3 Quality assured sampling & monitoring results shall be presented in Progress Reports
- 2.3 RCRA/CERCLA Integration
 - 2.3.1 Workplan shall include an explanation of how the investigation will satisfy Section 17 (RCRA/CERCLA Integration) of this Agreement and provide a rationale for the investigative approach
 - 2.3.2 Presentation of Solid Waste Management Unit (SWMU) Investigation Results
 - 2.3.3 Recommendations for additional SWMU definition and contaminant characterization as part of the RI
 - 2.3.3.1 Identification of data gaps
 - 2.3.3.2 Needed characterization work
 - 2.3.3.3 Assessment of need for removal actions
 - 2.3.4 Corrective Action of SWMUs Under CERCLA - If 2.3.3 above requires Corrective action(s) for any SMWU(s), then these corrective actions

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- shall be addressed under the requirements of CERCLA
- 2.4 Baseline Risk Assessment
 - To include a Human Health Evaluation and an Environmental Evaluation.
 - Each evaluation shall define the scope, complexity, and rationale for the evaluation.
 - A) Human health evaluation
 - 2.4.1 Identification of Chemicals of Potential Concern
 - 2.4.1.1 General Site-specific data collection considerations
 - 2.4.1.2 General Site-specific data evaluation considerations
 - 2.4.2 Geographic area or Operable Unit
 - 2.4.3 Exposure assessment
 - 2.4.3.1 Characterization of exposure setting
 - 2.4.3.2 Identification of exposure pathways
 - 2.4.3.3 Quantification of exposure
 - 2.4.3.4 Identification of uncertainties
 - 2.4.3.5 Summary of exposure assessment
 - 2.4.4 Toxicity assessment
 - 2.4.4.1 Toxicity information for noncarcinogenic effects
 - 2.4.4.2 Toxicity information for carcinogenic effects
 - 2.4.4.3 Chemicals for which no EPA Toxicity Values are available
 - 2.4.4.4 Uncertainties related to toxicity information
 - 2.4.4.5 Summary of toxicity information
 - 2.4.5 Risk characterization
 - 2.4.5.1 Current land-use conditions
 - 2.4.5.2 Future land-use conditions
 - 2.4.5.3 Uncertainties
 - 2.4.5.4 Comparison of risk characterization results to human studies
 - 2.4.5.5 Summary discussion and tabulation of the risk characterization
 - B) Environmental Evaluation
 - 2.4.6 Define need, objectives, and level of effort for evaluation
 - 2.4.7 Evaluation of site characteristics
 - 2.4.7.1 Nature and extent of contaminated area
 - 2.4.7.2 Sensitive environments
 - 2.4.8 Contaminant Evaluation
 - 2.4.8.1 Identification and characterization
 - 2.4.8.2 Biological and environmental concentrations
 - 2.4.8.3 Toxicity of contaminants
 - 2.4.8.4 Potential ARARs and criteria
 - 2.4.9 Potential for Exposure
 - 2.4.10 Selection of assessment and measurement endpoints
 - 2.4.10.1 Ecological endpoints
 - 2.4.10.2 Evaluation of potentially affected habitats
 - 2.4.10.3 Evaluation of potentially affected population
 - 2.5 Site Characterization Analysis
 - Analyze all site investigation results to prepare a summary to ensure the investigation data are sufficient in quality and quantity to support the FS
 - 2.5.1 Organize and present logically the relationship between site investigations for each medium.
 - 2.5.2 Develop a summary of the types and extent of contaminants
 - 2.6 Supplemental Investigations and Treatability Studies

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DDRW-Tracy may need to perform additional tasks in order to accomplish the RI/FS objectives. Such tasks may include but not be limited to additional field work, studies to provide information on newly discovered contaminants, exposure pathways of concern, and bench or pilot-scale tests of possible remedial technologies.

2.7 Community Relations Support

This task includes but may not be limited to

- 2.7.1 Revisions and additions to the CRP
- 2.7.2 Analysis of community attitudes toward proposed action(s)
- 2.7.3 Preparation and dissemination of information
 - 2.7.3.1 News releases
 - 2.7.3.2 Fact sheets and updates
 - 2.7.3.3 Slide shows
 - 2.7.3.4 exhibits
 - 2.7.3.5 Audio & visual materials
- 2.7.4 Establishment of a Community Information Center
- 2.7.5 Arrangement for briefings, press conferences
- 2.7.6 Technical Assistant Grant support, as needed

2.8 Remedial Investigation Report(s)

DDRW-Tracy shall include in the RI report shall include all results from tasks 2.0 (A) through and including 2.0 (C) section 2.6 of this Appendix, interpretations of such results (including any graphical presentations), correlations of such results between the contaminated media, identification of data gaps, and a proposal for necessary future work. If a plan prepared under 2.0 (B) section 2.4 of this Appendix is submitted separately, then the RI Report need not include that Plan.

3.0 FEASIBILITY STUDY

3.1 Findings of the Remedial Investigation

DLA shall summarize the investigative efforts based on task 2.0 (A) and new data & information obtained from tasks 2.0 (B) through 2.0 (C) 2.6 of this Appendix.

3.2 Development of Alternatives

DLA shall develop alternatives concurrently with the RI site characterization, with the results of one influencing the other in an iterative fashion. DLA shall

- 3.2.1 Establish Remedial Action Objectives. Objectives must be developed which specify contaminants, media of interest, exposure pathways, and remediation goals.
- 3.2.2 Develop Response Actions for each medium.
- 3.2.3 Identify volumes and areas of media to which treatment or containment action may be applied.
- 3.2.4 Identify potential treatment technologies.
- 3.2.5 Initially screen technology types based on technical implementability. Of remaining technology types, evaluate and screen specific process options based on
 - 3.2.5.1 Effectiveness
 - 3.2.5.2 Implementability
 - 3.2.5.3 Cost

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- 3.2.6 Assemble actions and remaining process options into viable remedial alternatives
- 3.2.7 Conduct Community Relations
- 3.2.8 Report and communicate to the other Parties
- 3.3 Screening of Alternatives DLA shall:
 - 3.3.1 Screen alternatives with key consideration given to each alternative's ability to protect human health and the environment. Alternatives that are protective and comply with ARARs should not be screened on the basis of cost unless the screened alternative is grossly more costly (an order of magnitude greater in cost). Evaluate only protective alternatives with respect to their short and long-term:
 - 3.3.1.1 Effectiveness
 - 3.3.1.2 Implementability
 - 3.3.1.3 Cost
 - 3.3.2 Conduct Community Relations
 - 3.3.3 Report and communicate to the other Parties
- 3.4 Post-screening investigations. DLA shall:
 - 3.4.1 Determine data requirements
 - 3.4.2 Conduct additional site characterization, as necessary
 - 3.4.3 Conduct treatability studies for innovative technologies, as necessary
 - 3.4.3.1 Conduct laboratory and/or bench-scale studies to determine applicability of remedial technologies
 - 3.4.3.2 Analyze the technologies to determine the testing requirements
 - 3.4.3.3 Develop a test workplan:
 - 3.4.3.3.1 Testing types
 - 3.4.3.3.2 Testing goals
 - 3.4.3.3.3 Levels of efforts
 - 3.4.3.3.4 Data management & interpretation guidelines
 - 3.4.3.4 Perform tests
 - 3.4.3.5 Evaluate testing results
 - 3.4.3.6 Scale-up promising technologies based on testing results
 - 3.4.4 Application of results
 - 3.4.5 Conduct Community Relations during the post-screening investigations
 - 3.4.6 Report and communicate to the other Parties during post-screening investigations
- 3.5 Detailed analysis of the remaining alternatives. DDRW-Tracy shall:
 - 3.5.1 Discuss risks presented in the baseline risk assessment
 - 3.5.2 Discuss remediation goals and reduction of significant risks
 - 3.5.3 Use evaluation criteria for detailed analysis of alternatives
 - 3.5.3.1 Overall Protection of Human Health & the Environment
 - 3.5.3.2 Compliance with ARARs
 - 3.5.3.3 Long-term Effectiveness and Permanence
 - 3.5.3.4 Reduction of Toxicity, Mobility or Volume through treatment
 - 3.5.3.5 Short-term Effectiveness
 - 3.5.3.6 Implementability
 - 3.5.3.7 Cost
 - 3.5.3.8 State Acceptance
 - 3.5.3.9 Community Acceptance
 - 3.5.4 Conduct Community Relations
 - 3.5.5 Report and communicate to the other Parties

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- 3.6 DDRW-Tracy shall recommend remedial alternatives
- 3.7 Feasibility Study Report(s)
 - The report shall include the results of tasks from 3.1 through 3.6 of this Appendix.

@ Detailed elements of the QAPP and FSP are provided on pages -App.C-9 through -App.C-12.

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Quality Assurance Project Plan Outline

EPA guidelines and specifications for preparing a QAPP require a QAPP to include:

- 1.0 Bottom of title page should include signature blocks for following approving personnel:
 - 1.1 EPA Project Officer's immediate supervisor
 - 1.2 EPA QA Officer
 - 1.3 DLA Project Manager
 - 1.4 DLA Responsible QA Official
 - 1.5 Funding organization's Project Officer
 - 1.6 Funding organization's QA Officer
- 2.0 Table of Contents includes:
 - 2.1 Introduction
 - 2.2 Listing of the 16 QAPP components
 - 2.3 Listing of Appendices required to augment the QAPP
 - 2.4 Listing of all individual receiving official copies of the QAPP and its revisions
- 3.0 Project Description
- 4.0 Project Organization and Responsibility
- 5.0 Quality Assurance Objectives for Measurement of Data. For each major parameter provide Quality Assurance Objectives for:
 - 5.1 Precision
 - 5.2 Accuracy
 - 5.3 Completeness
 - 5.4 Representativeness
 - 5.5 Comparability
- 6.0 Sampling Procedures
 - 6.1 Method of Collection
 - 6.2 Rational for Sample Site Selection
 - 6.3 Preparation of Sampling Equipments and containers
 - 6.4 Type and Volume of Sample Container
 - 6.5 Description of Decontamination Procedures
 - 6.6 Holding Time and Preservation Method
 - 6.7 Time Consideration for Sample Shipping
 - 6.8 Documentation of Sampling History, Conditions and Analyses (including forms, note books and logs)
- 7.0 Sample Chain of Custody Procedures
 - A. Field Sampling Operation
 - 7.1 Documentation of Exact Location and Consideration Associated with Sample Acquisition
 - 7.2 Documentation of Procedure for Preparation of Reagents
 - 7.3 Documentation of Method for Sample Preservation
 - 7.4 Labeling Techniques
 - 7.5 Availability of Chain Of Custody Form
 - B. Lab Operation
 - 7.6 Identification of Sample Custodian

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- 77 Lab Procedure for Sample Handling,
Storage and Dispersement for Analysis
- 78 Specification of Lab Sample Custody Procedures for
Sample Handling, Storage and Dispersement for Analysis
- 80 Calibration Procedures and Frequency and Information for Field
Equipment and Lab Equipment
 - 81 Major measurement parameters
 - 811 Pollutant Measurement System
 - 812 Standard Operation Procedure (SOP)
 - 813 Description of calibration procedures
 - 82 List frequency of re-calibration
 - 83 List calibration standards
 - 84 Where Calibration and Repairs Logged
- 90 Analytical Procedures
 - 91 Cite Method Name and Number
 - 92 Description of Analytical Procedure
 - 921 Analytes
 - 922 Parameter Group
 - 923 Method Name and Number
 - 924 Detection Limit
- 100 Data Reduction, Validation and Reporting
 - 101 Data Reduction Scheme Planned on Collected Data
 - 102 Criteria Used to Validate Data Integrity During Data
Collection and Reporting
 - 103 Methods Used to Identify and Treat Outliers
 - 104 Reporting Scheme for Collection of Raw Data
 - 105 Key Individuals In this Reporting Scheme
- 110 Internal Quality Control Checks (both Lab & Field)
 - 111 Replicates
 - 112 Spiked Samples
 - 113 Split Samples
 - 114 Control Charts
 - 115 Blanks
 - 116 Internal Standards
 - 117 Zero and Span Gases
 - 118 Quality Control Samples
 - 119 Surrogate Samples
 - 1110 Calibration Standards & Devices
 - 1111 Reagent Checks
- 120 Performance and System Audits
 - 121 Internal Audits
 - 1211 Description of Audits
 - 1212 Audited by
 - 1213 Frequency of Audits
 - 1214 Person to Receive Audit Reports
 - 122 External Audits
 - 1221 Description of Audits
 - 1222 Audited by
 - 1223 Frequency of Audits
 - 1224 Person to Receive Audit Reports

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- 13.0 Preventive Maintenance
 - 13.1 Schedule of Maintenance to Minimize Downtime
 - 13.2 Critical Spare Parts to Minimize Downtime
- 14.0 Routine Procedures Used to Assess:
 - 14.1 Data Precision
 - 14.2 Data Accuracy
- 15.0 Corrective Action
 - A. Procedures Include the Following:
 - 15.1 Limit for Data Acceptability Beyond Which Corrective Action is Required
 - 15.2 Re-evaluation of Analyst's Work & Instrumentation Checks
 - 15.3 Corrective Action Initiator & Approver
 - B. Other QA activities May Also Initiate Corrective Action:
 - 15.4 Performance Audits
 - 15.5 System Audits
 - 15.6 Lab/Interfield Comparison Studies
 - 15.7 QA Program Conducted by Quality Management Staff (QAMS)
- 16.0 Quality Assurance Report and Management
 - 16.1 Periodic Assessment of Data Quality, Precision & Completeness
 - 16.2 Results for Performance Audits
 - 16.3 Results for System Audits
 - 16.4 QA problems & Solutions
 - 16.5 Frequency of Report

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Field Sampling Plan Outline

This plan is developed in concert with the QAPP. The FSP shall delineate the data gaps at the Site and describe how the design of the field sampling will provide the needed information. The FSP shall include:

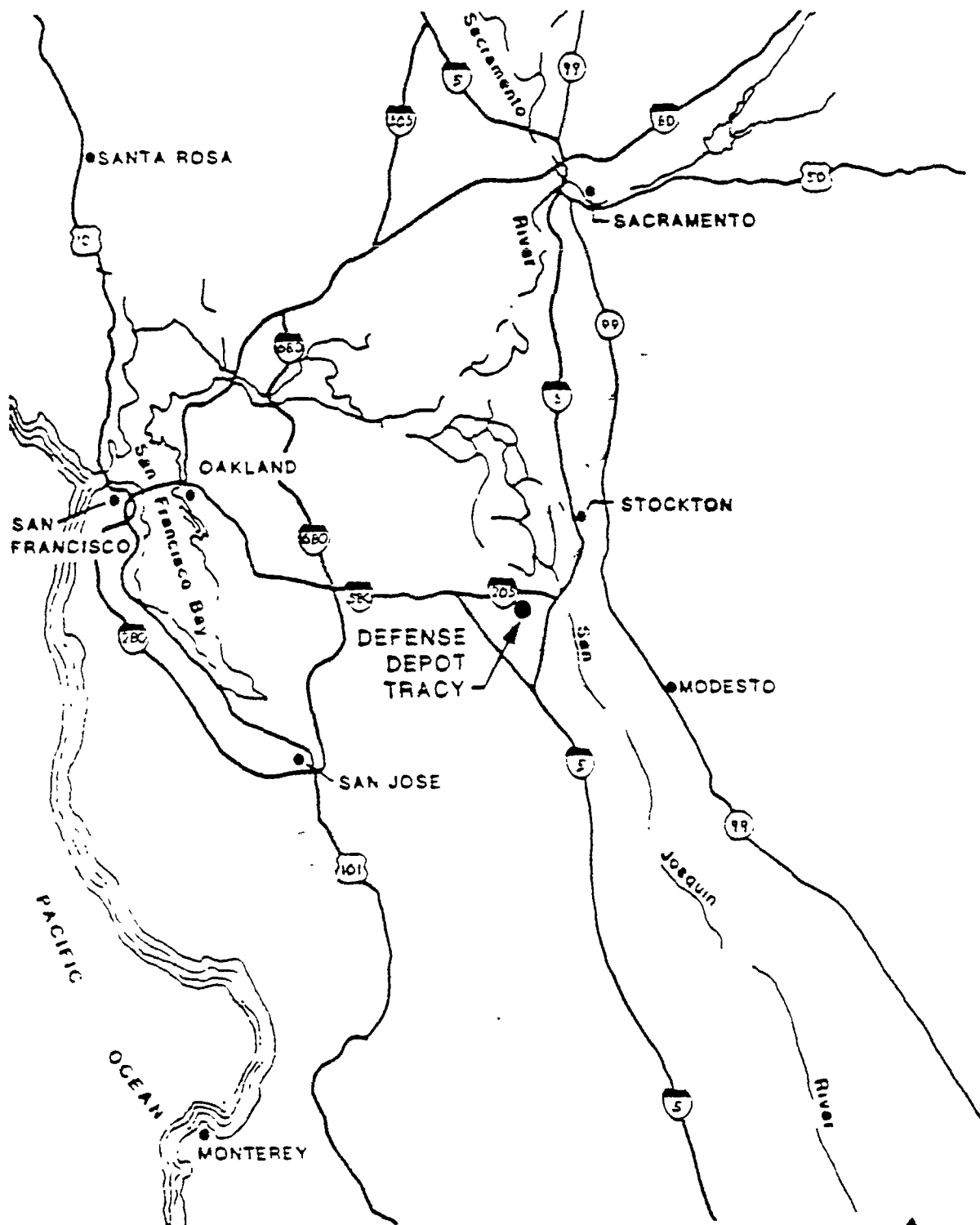
- 1.0 Objectives of the Sampling Effort
- 2.0 Maps of All Pertinent Locations & Sampling Points
- 3.0 Rationale for Sampling Location and Numbers of Samples
- 4.0 Request for Analyses
 - 4.1 Narrative Request for Analyses
 - 4.2 Tabular Request for Analyses
- 5.0 Field Methods & Procedures
 - 5.1 Sample Collection
 - 5.2 Disposal of Contaminated Materials
 - 5.3 Equipment Decontamination
 - 5.4 Sample Containers
 - 5.5 Sample Preservation
 - 5.6 Sample Shipment
 - 5.7 Sample Documentation
 - 5.8 Quality Assurance
 - 5.8.1 Replicates
 - 5.8.2 Blanks

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Attachment A

Maps of Federal Facility

Attachment A-1:	Regional map
Attachment A-2:	Project area map
Attachment A-3:	Map of areal extent of groundwater contamination

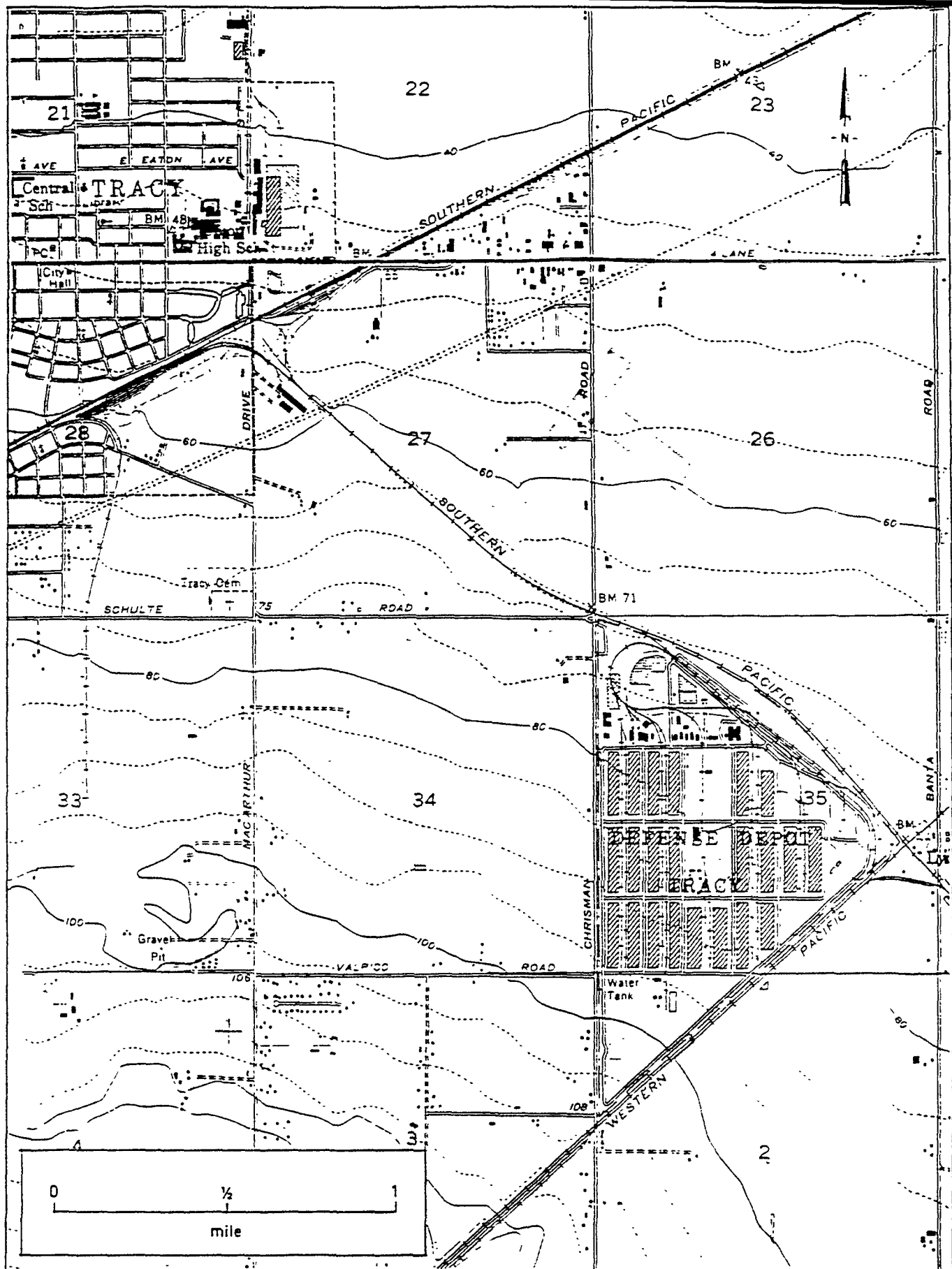


Project No.
90380B

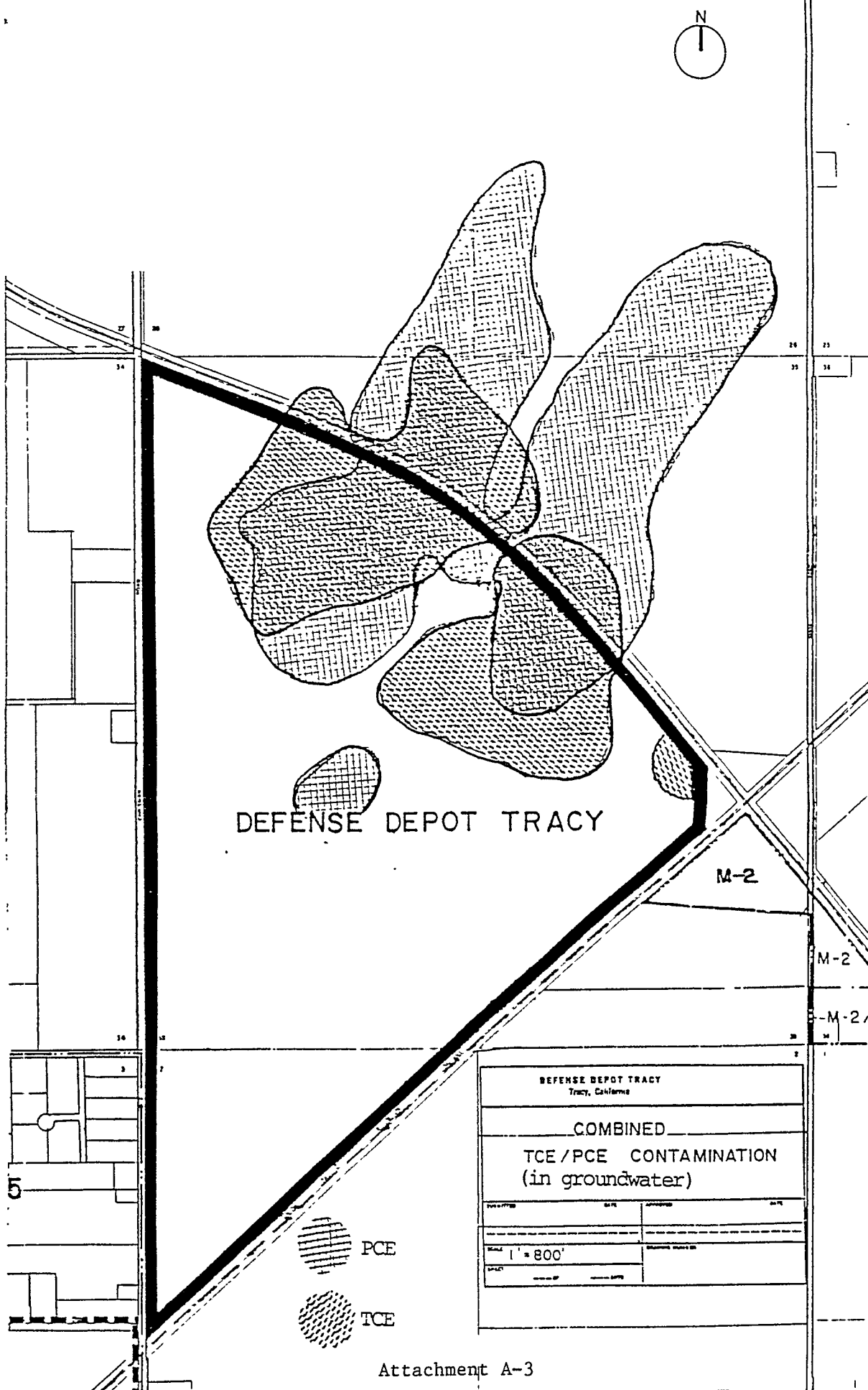
DDRW Tracy

Woodward-Clyde Consultants

REGIONAL AREA MAP
DEFENSE DISTRIBUTION REGION WEST TRACY



Project No. 903808	DDRW Tracy	PROJECT AREA MAP DEFENSE DISTRIBUTION REGION WEST TRACY	
Woodward-Clyde Consultants			



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Attachment B Chemicals of Concern

Toxicity of Substances Found at Defense Distribution Region West (DDRW) Tracy

This description of the potential toxicity of chemicals of concern at DDRW Tracy site is for reference only and should not be interpreted as describing effects on any individual person.

This list represents chemicals of concern at DDRW-Tracy at the time of this Agreement, as the Remedial Investigation continues the list may change.

ANTIMONY

Acute: Nausea, vomiting, and severe diarrhea with mucus and later with blood, headaches, weakness, jaundice, anemic, and weak pulse,

Chronic: Itching skin pustules, bleeding gums, conjunctivitis, laryngitis, headache, weight loss, and anemia,

ARSENIC

Acute: Dermatitis, mild bronchitis, poison.

Chronic: Cirrhosis of the liver, leukemia.

BENZENE

Acute: Moderately toxic by ingestion and inhalation of: vapors, narcotic, irritates eyes and mucous membranes, Central Nervous System (CNS) depression, headache, leg muscle weakness, dizziness, Prolonged exposure can cause nausea, convulsions, coma, and respiratory failure causing death.

Chronic: Exposure may cause suppression of blood cells, leukopenia (reproduction of blood leukocytes), anemia, thrombocytopenia (decrease in blood platelet), EPA listed carcinogen.

BERYLLIUM

Acute: Dermatitis, conjunctivitis very toxic.

Chronic: Lung lesions with respiratory damage and death.

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CADMIUM

- Acute: Irritation of upper respiratory tract, cough, pain in chest, chills, generalized weakness.
- Chronic: Emphysema, kidney damage, anemia.

CHLOROBENZENE

- Acute: Central Nervous System (CNS) irritant/depressant, paralysis.
- Chronic: Headache, dizziness, hepatic, and renal disorders, and cyanosis.

CHROMIUM

- Acute: Coughing, wheezing, headache, shortness of breath, pain or deep inspiration, fever, weight loss.
- Chronic: Lacrimation, inflammation of the conjunctiva, nasal itch and soreness epistaxis (nosebleeds), ulceration and perforation of nasal system, congested nasal mucosa, chronic asthmatic bronchitis, dermatitis, ulceration of the skin, cutaneous discoloration, and dental erosion.

COPPER

- Acute: Oxide fumes can cause metal fume fever, upper respiratory tract irritation; ingestion may cause nausea, vomiting, and skin discoloration.
- Chronic: Hemolysis, fibrosis, and cirrhosis of the liver, CNS damage, and kidney disfunction.

ETHYLBENZENE

- Acute: Burns of skin, sensation of chest constriction, irritation of respiratory tract, dizziness, narcosis (paralysis), substernal tightness.
- Chronic: Conjunctivitis, cornea erosion.

LEAD

- Acute: Headache, aching bones and muscles, digestive system and abdominal pains, If exposure is continued, vomiting, malaise, and convulsions may occur; permanent brain damage, and reversible kidney damage may also occur,

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Chronic: Suspected teratogen, vascular sclerosis, tubal cell atrophy, and intestinal fibrosis may occur after excess chronic exposure, anemia, pallor, decreased hand grip, fatigue, sleep disturbance, decreased appetite, abdominal cramping, nausea, vomiting, and learning deficiencies have been observed.

MERCURY

Acute: Nausea, abdominal pain, vomiting, diarrhea, headache, pulmonary irritation, and neural damage.

Chronic: Anemia, hypothyroidism and excitability.

NICKEL

Acute: Limited or absent respiratory motions, a significant decrease in pneumatization of pulmonary areas.

Chronic: Cancers of the lung and sinus, dermatitis.

SELENIUM

Acute: Irritates the membranes of the eyes, nose, throat and respiratory tract; marked pallor, coated tongue, gastrointestinal disorders, nervousness, headache.

Chronic: Pneumonia and degeneration of the liver and kidneys in animals; may cause cancer of the liver in humans.

SILVER

Acute: Argyrosis (dark discoloration of skin).

Chronic: Tumors.

TETRACHLOROETHYLENE (PCE)

Acute: Nausea, vomiting, headache, dizziness, drowsiness, and tremors, eye and skin irritation,

Chronic: Headache, fatigue, and dizziness, liver and kidney damage,

THALLIUM

Acute: Ataxia, convulsion, nausea, vomitin#, diarrhea, pain, pain in legs, weight loss, paralysis, fatal, Abnormality of nervous systems of small intestine,

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kidney and lungs.

Chronic: Paralysis, pain of legs, loss of hair.

TOLUENE

Acute: Mildly toxic by inhalation; irritation to eyes, respiratory tract, and skin, tachycardia, and recoverable respiratory paralysis, coma can occur.

Chronic: Exposure in the range 200/500 ppm can cause dizziness, fatigue, muscular weakness, drowsiness, incoordination with staggering gate, skin parathesis, prolonged inhalation may cause, anemia, collapse, coma, leucopenia, and bone marrow effects.

TRICHLOROETHYLENE (TCE)

Acute: Nausea, vomiting, headache, dizziness, drowsiness, and tremors, eye and skin irritation.

Chronic: Headache, fatigue, and dizziness, liver and kidney damage.

ZINC

Acute: Cough, fever, chills, weakness, and nausea.

Chronic: Skin irritant.

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Attachment C

Statement of Facts

The Tracy Defense Depot began operations in 1942, as a sub-depot of the California Quartermaster Depot in Oakland, CA. During World War II, the depot supplied quartermaster items to troops and installations within the US and overseas. At the end of World War II, the Quartermaster Depot in Oakland was closed and the Tracy Depot was reassigned to the Lathrop Army Service Depot, Lathrop, CA. In 1963, the depot was renamed Defense Depot Tracy and became the first depot to operate under the Defense Logistics Agency (DLA). Effective 24 June 1990, the depot was renamed Defense Distribution Region West (DDRW) Tracy.

The depot is presently a storage and distribution facility for food, medical supplies, construction materials, clothing, electrical, industrial, and general supplies common to military services located within the western US and throughout the Pacific overseas area. There are approximately 75 acres of open storage area at the depot, of which about 63 acres are paved and 12 acres are covered by gravel. Much of the paved and graveled areas are used for open storage of empty compressed gas cylinders, new/empty drums, pallets, and steel products. Industrial activities occupy approximately 28 acres of depot property. Included within these 28 acres are the vehicle, railroad, carpentry, and medical equipment maintenance facilities, and their surrounding service areas. The DLA has plans to expand the depot facility over the next several years to improve its operational efficiency and capacity.

Since the depot's inception in 1942, a wide range of chemicals/products have passed through its gates for delivery to other facilities. An exact account of all these chemicals/products is not possible due to the passage of time and the lack of records, however, it is possible to define groups of chemicals/products and list in the respective tables those chemicals/products for which records were found. Those groups are industrial chemicals/products, radiological materials, fuels/solvents, pesticides/herbicides, and fertilizers.

TABLE I
INDUSTRIAL CHEMICALS/PRODUCTS

Kodak Batch
Reversal
Developer
Ferric Chloride Solid
Acetaminophenelixir
Benzene Sulfonyl
Fix Bath

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Calcium Chloride
Replenisher Developer
Acetic Acid
Trichloro Acetic Acid
Acetic Anhydride (liquid)
Hydrochloric Acid
Hydrochloric Acid (Diethylenetriamine)
Potassium Hydroxide Solution
Sodium Hydroxide Solution
Creatine Phosphokinase
Nitric Acid
Soda Line (solid)
Sulfuric Acid
Ammonium Hydroxide Tech.
Merthiolate (Aerosol Products)
Morpholine
Phosphoric Acid
Ammonium Hydroxide
Mercuric Nitrate
Chromic Acid Solution
Ethylenediaminetetraacetic Acid Cleaning Compound
(corrosive liquid)
Zinc Chloride Solution
Sodium and Potassium Phosphate Mix
Monoethanolamine Solution
Diacethylmonoxine and Thiosemicarbazide
Sodium Hypochlorite

TABLE II
RADIOLOGICAL MATERIALS

	<u>Radio-Isotope</u>
Mantel, Illum	Th 232
Lamp, Glow	Ra 226
Tachometer	Ra 226
Wave Guide	Co 60
Gamma Ray Unit	DU 235
Watch, Wrist	H3
Lantern	Th 232
Lantern	Th 232
Lantern	Th 232
Static Master	Po 210
Panel Assay	Kr 85
Protector	PM 147
Static Master	Po 210
Tachometer	Ra 226
Indicator	Ra 226
Generator	Th 232
Static Master	Po 210
Gage, Pressure	Ra 226

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TABLE III
FUELS/SOLVENTS/OIL

gasoline (leaded)
gasoline (unleaded)
diesel fuel #
diesel fuel #
liquid petroleum gas
propane
natural gas
trichloroethylene (TCE)
tetrachloroethylene (PCE)
oil (various weights/grades)

TABLE IV
PESTICIDES/HERBICIDES/FERTILIZERS

Anticoagulant Prival
Warfarin Concentrate
Pivalyn Concentrate
Best R Snail and Slug Pellets
Malathion EC
Rodenticide, Diphacin, Bait Blocks
Baygon Bait
Diazinon - 4E
Synergized Pyrethrins
B-Gone
Hug States Residual Spray
Pratt B G N Insect Spray
Diazinon Liquid Residual
Diazinon 2% Dust
Lindane Powder
Dursban 1-E
Dursban 2-E
Chlordane EC
Chlordane Dust
Chlordane EC
D-Tox 4E
Dieldrin WP
Durham Metalhyde G
Sevin
Whitmire No. 110 prescription treatment
20% Vapona Resin Granules
5% Vapona Insecticide (ULD-V-500)
Nanfume (Methyl Bromide)
Phostoxin
Phostoxin (pre-packs)
Dalapon
Monuron 80 WP
Weed-Rhap R2, 4-D
Ureabor
Dowpon M.

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The bulk of the materials listed in tables 1-4 with the exception of the fuels in table 3 were transshipped to/from the depot. Materials which were used on the depot or which became excess or waste because of exceeded shelf life were disposed of in various ways. Those ways included, onsite burial, onsite burn/burial, onsite incineration and onsite collection for appropriate, state approved, off-site disposal.

Historically, little is known about solvent leaks or spills on the depot other than the fact that 55 gallon drums, which were stored on their sides, leaked during the summers when they were heated by the sun. The Environmental Office does have reports, from long term employees, which indicate small (5 gallons or less) accidental spills of solvents took place from time to time.

These measurements of TCE and PCE in the groundwater, soils and soil gas present the best available picture of the extent of these contaminants at and around the depot, for the groundwater operable unit. It is believed that the sources of the solvents TCE and PCE detected in the groundwater and soil are not associated with continuing sources such as buried tanks or similar "major sources" but arise more from past solvent storage, handling and use practices on the depot.

TCE and PCE were the only two contaminants in the groundwater OU area consistently found above regulatory limits, however, other potential contaminants were found, generally below regulatory limits.

On 16 May 1989, an Interim Record of Decision (ROD) was signed between DDRW and the State of California which specified the construction and operation of a groundwater pump and treat air stripper system. This system will be designed and operated to prevent the continued migration of the highest levels of TCE/PCE groundwater contamination off depot.

The groundwater pump and treat system is being constructed along the depot's northern boundary fence. The extraction wells and air stripper are located at about the midpoint of the northern fence line while the re-injection wells are at the far western end of the northern boundary fence.

DDRW is currently working to define the soils operable units via the following investigations/projects:

- a. Solid Waste Management Units (SWMUs) Investigation
- b. Underground Storage Tank (UST) Report
- c. Follow-on Remedial Investigation/Feasibility Study (RI/FS)
- d. Abandoned Well Project.

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Attachment D

Installation Restoration Program History

To date, DDRW Tracy has performed several major contamination studies, they include:

a. Installation Assessment of Defense Depot Tracy, Toxic and California, Report No. 181, October 1980, performed by: US Army Hazardous Materials Agency.

b. Solid Waste Special Study No. 10-61-0165-81, Defense Depot Tracy, Tracy, California, 21-26 July 1980, performed by: US Army Environmental Hygiene Agency.

c. Environmental Assessment Defense Depot Tracy, Tracy, California, June 1982, prepared by: Jefferson Associates.

d. Geohydrological Study No. 38-26-0483-85, Defense Depot Tracy, Tracy, California, 9-22 February 1985, prepared by: US Army Environmental Hygiene Agency.

e. Geohydrological Investigations Final Engineering Report, Defense Depot Tracy, Tracy, California, 27 August 1986, performed by: Radian Corporation.

f. Draft RI/FS Engineering Report, Defense Depot Tracy, Tracy, California, 3 July 1989, prepared by: Woodward-Clyde Associates.

The above referenced studies/documents have enabled DDRW Tracy to define the Groundwater Operable Unit (OU).

Through these studies (which concentrated primarily on the northern end of the depot), it was determined that among the supplies used consistently at the depot from 1942 to date, were cleaning and degreasing compounds containing the chlorinated hydrocarbon solvents trichloroethylene (TCE) and tetrachloroethylene (PCE). Both of these compounds have been found persistently as contaminants in the soil gas, soil and groundwater, generally in areas used one time or another for mechanical maintenance or drum storage.

Additional documents/studies accomplished at DDRW Tracy are found below:

1980	Jul 21-26	Solid Waste Special Study No. 10-61-0165-81, Defense Depot Tracy, Tracy, California, US Army Environmental Hygiene Agency
1980	Oct	Installation Assessment of Defense Depot Tracy California Report #181, USATHAMA
1982	Jun	Environmental Assessment Defense Depot Tracy, Tracy, California, Jefferson Associates Inc.
1985		Geohydrological Study No. 38-26-0488-85 Defense Depot Tracy, California, USATHAMA
1985	Feb	Geohydrological Study No. 38-26-0488-85, Defense Depot Tracy California, USATHAMA
1985	Nov 14	Geohydrological Investigations, Final Plans, Defense Depot Tracy, Tracy, California, Radian Corporation
1986	Aug 27	Geohydrological Investigators, Final Engineering Report, Defense Depot Tracy, Tracy, California, Radian Corporation
1986	Dec	Phase II Work Plans Remedial Investigation /Feasibility Study, Defense Depot Tracy, Woodward-Clyde Consultants
1987	Mar 6	Letter Report Number 1, Defense Depot Tracy, Tracy, California, Woodward-Clyde Consultants
1987	Mar 19	Draft Letter Report Task 8, Sampling and Analysis of Private Wells, Defense Depot Tracy, Tracy, California, Woodward-Clyde Consultants
1987	Apr	Work Plans Remedial Investigation/ Feasibility Study Defense Depot Tracy, Woodward-Clyde Consultants
1987	Jun 13	Letter Report Number 2, Defense Depot Tracy, Tracy, California, Woodward-Clyde Consultants
1988	Feb 1	Letter Report Number 3, Defense Depot Tracy, Tracy, California, Woodward-Clyde Consultants
1988	Apr	Tank Closure Report for Buildings 28 and

247, Underground Storage Tanks at Tracy
Defense Depot in Tracy, California, ECOS,
Inc.

1988	Apr 29	Draft Remedial Investigation Engineering Report, Defense Depot Tracy, California, Woodward-Clyde Consultants
1988	Jun 17	Point Source Sampling Investigation: Sampling By: Canonie Environmental
1988	Jun 23	Letter Report Number 4, Defense Depot Tracy, Tracy, California, Woodward-Clyde Consultants
1988	Sep 7	Work Plan Section 11.0, Additional Groundwater Monitoring Wells, Defense Depot Tracy, California, Woodward-Clyde Consultants
1988	Nov 28	Preliminary Submittal, Proposed Improvements for Evaporation Ponds 1, 2 and 3 and Various Sanitary Conveyance Facilities, Defense Depot Tracy, Tracy, California, Raymond Vail and Associates
1988	Nov 28	Soil Sampling Investigation, Defense Depot Tracy, California, Kleinfelder
1988	Dec 23	Phase I Remedial Investigation Report, Defense Depot Tracy, Tracy, California Woodward-Clyde Consultants
1989	Jan	Work Plan, Aquifer Pump Test, Defense Depot Tracy, California, ERC Environmental and Energy Services Company
1989	Jan	
1989	Mar	
1989	Mar 9	Data Analysis Supporting Task 36 Well Locations for Defense Depot Tracy, Woodward-Clyde Consultants
1989	Mar 24	Aquifer Pump Test Engineering Report, Defense Depot Tracy, California, ERC Environmental and Energy Services Company
1989	Apr 28	
1989	Apr 7	Technical Submittal of Task 28 - Part 1, Groundwater Sampling and Analyses for Defense Depot Tracy California, Woodward-Clyde Consultants
1989	Apr 28	Evaluation of Groundwater Withdrawal and

Treatment, Defense Depot Tracy,
California, ERC Environmental and Energy
Services Company

1989	May 11	Section C, Description/Specification/ Work Statement Data Items DD 1423 and DD 1664, Interim Remedial Measure, Defense Depot Tracy, California, ERC Environmental and Energy Services Company
1989	May 16	Environmental Assessment, Interim Groundwater Remediation System, Defense Depot Tracy, California, ERC Environmental and Energy Services Company
1989	May 16	Record of Decision - Interim Groundwater Remediation System - Defense Depot Tracy, California, ERC Environmental and Energy Services Company
1989	Jul 3	RI/FS Engineering Report, Defense Depot Tracy, Tracy, California, Woodward-Clyde Consultants
1989	Jul 5	Negative Declaration for Interim Remediation System (Air Stripper) for Groundwater Treatment, US Defense Logistics Agency, Defense Depot Tracy, Tracy, California
1989	Jul 10	Contract DACA87-89-R-0099, Interim Ground Water Withdrawal, Treatment and Disposal System
1989	Jul 19	Work Plan, Section 13.0, Additional Groundwater Monitoring Wells for Defense Depot Tracy California, Woodward-Clyde Consultants
1989	Nov	Hazardous Waste Management Plan for Defense Depot Tracy, Tracy, California, Black and Veatch
1989	Nov 20	Application for Authority to Construct and Permit to Operate Air Stripping Tower and GAC Vapor Control Units to Clean Up TCE and PCE Contaminated Groundwater at Defense Depot Tracy, California (DDTC), Ensotech, Inc.
1990	May 10	
1990	Oct 3	
1990	Dec 11	
1989	Nov 20	Permit for Drilling 18 Wells at Defense Depot Tracy, California, Ensotech, Inc.

1990	Jan 15	Safety, Health, and Emergency Response Plan (Draft) for Defense Depot Tracy, Ensotech, Inc.
1990	Jan 15	Site Specific Safety Plan, Groundwater Remediation (Draft) for Defense Depot Tracy, Tracy, California, Ensotech, Inc.
1990	Jan 16	Rationale for Monitoring Well Placement at Tracy Defense Depot, San Joaquin County, California, Ensotech, Inc.
1990	Jan 18	Site Specific Quality Management Plan
1990	Mar 15	(SSQMP) for Interim Groundwater Treatment
1990	Mar 15	System at Tracy Defense Depot, San Joaquin
1990	May 3	County, California, Ensotech, Inc.
1990	Jan 23	Preliminary Groundwater Model Report, Defense Depot Tracy, San Joaquin County, California, Ensotech, Inc.
1990	Jan 24	Draft Investigation Plan, Industrial Process System Assessment and Process Evaluation at Defense Depot Tracy, California, Aepco, Inc.
1990	Jan 25	Design Calculations for Interim Groundwater Remediation at Tracy Defense Depot, Ensotech, Inc.
1990	Jan 25	Equipment Submittal Data for Interim
1990	Mar 22	Groundwater Remediation at Defense Depot
1990	Jul 12	Tracy, San Joaquin County, California, Ensotech, Inc.
1990	Jan 25	Permits Status Report for Interim Groundwater Remediation at Tracy Defense Depot, San Joaquin County, California, Ensotech, Inc.
1990	Jan 25	Preventative Maintenance Schedule for
1990	Mar 22	Interim Groundwater Remediation at Tracy Defense Depot, San Joaquin County California, Ensotech, Inc.
1990	Jan 25	Start Up Schedule for Interim Groundwater Remediation at Tracy Defense Depot, San Joaquin County, California, Ensotech, Inc.
1990	Jan 25	Topographic Site Survey for Interim
1990	Apr 5	Groundwater Remediation at Tracy Defense

Depot, San Joaquin County, California,
Ensotech, Inc.

1990	Feb 22	Addendum to Work Plan Interim Groundwater Withdrawal, Treatment and Disposal System, Ensotech, Inc.
1990	Mar 24	Preliminary Groundwater Model Report, Defense Depot Tracy, San Joaquin County, California, Ensotech, Inc.
1990	Apr	Interim Remedial Action Plan for Defense Depot Tracy California, Marshall Cloud
1990	Apr 26	Final Investigation Plan, Industrial Process System Assessment and Process Alternatives Evaluation at Defense Depot Tracy, California, Aepco, Inc.
1990	May 17	Final Investigation Plan (Rev 01) Industrial Process System Assessment and Process Alternatives Evaluation at Defense Depot Tracy, California, Aepco, Inc.
1990	Oct	Draft Work Plan for Investigation of Solid Waste Management Units at Defense Distribution Region West, Tracy, California, Woodward-Clyde Consultants
1990	Dec	Draft RI/FS Report DDRW Tracy, California, Vol 1, Part A, Woodward-Clyde Consultants
1990	Dec	Draft RI/FS Report DDRW Tracy, California, Vol 1, Part B, Woodward-Clyde Consultants
1990	Dec	Draft RI/FS Report DDRW Tracy, California, Vol 2, Woodward-Clyde Consultants
1990	Dec	Preliminary Draft RI/FS Report DDRW Tracy, California, Appendices A-H, Woodward-Clyde Consultants
1990	Dec	Preliminary Draft RI/FS Report DDRW Tracy, California, Appendices H, Woodward-Clyde Consultants
1990	Dec	Preliminary Draft RI/FS Report DDRW Tracy, California, Appendices I-R, Woodward-Clyde Consultants
1990	Dec 21	DDRW Building 201 Contract/Scope of Work,

Golden West Builders

1991	Jan 31	Alternatives Evaluation/Implementation Report, Industrial Process System Assessment and Process Alternatives Evaluation at Defense Distribution Region West, Tracy, California, Aepco, Inc.
1991	Feb 6	Vol 1, Work Plans for the Well Monitoring Program at Defense Distribution Region West, Tracy, Woodward-Clyde Consultants
1991	Feb 6	Vol 2, Work Plans for the Well Monitoring Program at Defense Distribution Region West, Tracy, Woodward-Clyde Consultants
1991	Feb 25	Geologic Well Logs (Draft) for Interim Ground Water Remediation at Tracy Defense Depot, San Joaquin County, California, Ensotech Inc.

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ATTACHMENT E

Names of the Remedial Project Managers for each Party
as of the signing of this Agreement:

DDRW-Tracy:	Marshall Cloud
U.S. Environmental Protection Agency:	Michael Flaherty
California Department of Health Services:	James Pinasco
Regional Water Quality Control Board:	Camilla Williams